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The Journal of SOCIAL, POLITICAL AND ECONOMIC STUDIES

Roger Pearson
General Editor
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Will Europe Invest in Missile Defense?

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With the U.S providing leadership within appropriate committees and in SHAPE headquarters, European nations continue to discuss ballistic missile defense (BMD) within NATO. Despite these ongoing discussions and studies, with the obvious exception of the MEADS program, none of the NATO allies yet show any willingness to invest in missile defense hardware. This article compares and contrasts American and European views of missile defense and examines the underlying reasons for European reluctance to acknowledge and plan to counter the growing missile and warhead threat. Suggestions are made as to how European efforts might be redirected into more profitable directions.

Key Words: Ballistic missile defense, National missile defense, European security and defense policy.

Several articles have been written exposing the proliferation of both missile and unconventional warhead technology.[1,2,3] In this paper it is assumed that there is a missile and WMD (warheads of mass destruction) threat already in existence, that the threat is getting more severe and that the longer we delay in taking steps to counter the threat, the more this will encourage it's growth. If these statements have any validity, it is timely to question why has so little been done within Europe to negate this threat to security?

Simple questions usually beget complex answers, and BMD is no exception to this rule. There are several issues which contribute to the lack of investment in missile defense, and while they are certainly interrelated, they can be discussed separately initially.

Some three years ago we reported an analysis of the factors which contribute towards the decision whether or not to invest in new defense programs.[4] At that time the major topics considered in terms of US National Missile Defense were:-

An undisputed recognition of the threat
A military requirement to counter the threat
Public and Government support for the activity

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The technical capability
Financial commitment to complete the work
Freedom to proceed under the national constitution, and international treaties.

After examining each of the topics in some depth a mark between one and ten was given to each, according to the assessed level of importance in terms of US defense policy. The conclusions were that only one of the six categories merited a mark exceeding 50%. That was "technical capability". The overall mark was 40%, indicating clearly that NMD was, at that time, still far from being a well supported concept, even in the US.

The passing of Missile Defense bills in March 1999 by both houses of Congress, with significant bipartisan support, has manifestly changed the political scenario in Washington.[5] After threatening to veto any legislation on Missile Defense, the size of the favorable vote obviously modified the White House position, and it now appears likely that the policy to deploy a defense as soon as it is technically possible, will be accepted.[6] Nonetheless budgetary and Treaty problems still remain to be resolved, so that while the overall mark for NMD has certainly risen, it still rests only at about the 65% level, until these outstanding issues are settled.

If the same exercise were to be undertaken now within a European context, the overall mark would be significantly lower, probably below 20 %, leaving no doubt that little if anything is going to be done there in the near future to counter this growing menace.

The contrast between the mark that would be given to any of the European nations as compared to Israel is really startling. Israel quickly learned the lesson of the Iran/Iraq war, when each side launched countless missiles at each other, some probably carrying chemical warheads. They recognized that missiles had become a means of power projection, and that if they were to survive in the hostile environment of the Middle East they had to provide protection for themselves. An Israeli official explained to us in 1993 why they had to have their own program, and not team with America. " They would slow us down, we have a real threat and we have to respond to it quickly". Our six topics examined from an Israeli point of view generate a really high score of 95%, demonstrating clearly why Israel will be the first nation to deploy a genuine missile defense

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system.

In this paper we reexamine each of the issues listed above contrasting American and European views. This is done not just to emphasize how little is being done at the moment in Europe, but as a means of indicating how these issues will have to be tackled in the future, if any progress is to be made towards improving European security.

Recognition Of The Threat

Until longer range missiles were tested by Iran and North Korea in 1998,[1] most European governments were able to claim that while a threat might materialize eventually, there was no need for any investment in NMD in the near future. The distinct risk that these longer range missiles could be sold to nations somewhat closer to Europe, should diminish that sanguine attitude, but there has as yet been no obvious reaction. The same long term approach could not be made for TMD, for nations that were prepared to send troops to quell crises around the world. Instead the assumption was made that such troops would be part of a multinational force, with significant participation from the US. It then followed that America would provide the missile defense capabilities, freeing the Europeans from this responsibility. An issue that we shall certainly return to later.

The conclusions drawn during the British Strategic Defence Review neatly summarize the way in which these important issues have been sidestepped in terms of NMD.[7] It was suggested that BMs without unconventional warheads do not pose an adequate threat alone to justify specific countermeasures. The concern therefore is with nuclear, chemical & biological. There are many means of delivering the latter two, and the UK saw little merit in concentrating solely on one means of delivery. They preferred to stay with arms control, counter-proliferation, intelligence and counterforce as threat reduction methods. They note claim that their Trident force provides a deterrent against nuclear attack, so are able to claim that they have responses to all potential forms of threat without any need to develop or acquire missile defense.

There are several flaws in these arguments, the most obvious being that deterrence is fine only as long as it works. When it fails it becomes retribution, and no amount of retribution can protect those who are killed when deterrence first fails. The policy shows a

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reluctance to change that which was considered the only solution available during the bipolar period of the Cold War. It is certainly not the only solution available now, particularly as proliferation increases the risk that offensive systems might be acquired by terrorist organizations. Such groupings have shown little respect in the past for deterrence. The SDR reveals that the British Government is aware of the threat, but they are not prepared to acknowledge it because of other reasons that we shall consider.

Military Requirement To Counter Threat

In case anyone expresses surprise that branches of the military have not seized upon BMD to get increased funding, it should be recognized that the topic, if considered at all, is viewed as a "purple" activity, and has not become the responsibility of a single service. With defense budgets under significant pressure, each Service has been more concerned with preserving it's core capabilities, than seeking new tasks. The only exception so far has been the US Navy's efforts to secure a role in TMD, which they are now attempting to expand into NMD.[8] They recognized that with the end of the Cold War their blue water role was diminishing and they could offer the large investment already made in Aegis ships. These are equipped with good radar search and track capabilities, vertical launch systems and the nucleus of a cooperative engagement system. They lacked only enhanced interceptors, and these are now under development.

It is ironic that as the US Navy advocates the role of shipborne missile defense, Europe should be in such disarray with regard to the design of the new frigate and the missile systems with which it will be armed.[9] France has been strongly advocating the development of an improved SAMP/T which they suggest could provide a high altitude missile defense by 2020. What Europe is supposed to do to maintain security until then is not discussed in the article.[9]

There is no evidence of any branches of the European Services acting as champions for BMD. It seems that without political recognition of the threat, no Military Requirement will be formulated to counter it.

Public & Government Support

There is little evidence that the issue of BMD ever appears these days on the Cabinet Agenda of most nations other than Israel.

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It was certainly a pet project of President Reagan, who gave it such a kick start that no later U.S. Administration has yet been able to stop it's progress. This despite the lack of enthusiasm for the program by the Clinton team, and the lack of success in getting systems to the field. The topic hit a short high after the Gulf War, when the Scuds caused so much disruption in Saudi and in Israel, but since then it has gone off government radar screens. In times of limited resources, topics which do not attract Cabinet interest are not going to be allocated substantial funding.

In the States the topic of BMD is constantly in the public eye, with major articles appearing almost daily. At the extremes there are two vociferous camps making vastly exaggerated claims, leaving the bulk of the population in the middle and somewhat confused. For example a recent poll indicated that 54% of those responding believed the US already had the ability to intercept missiles.[10] Advocates of NMD suggest that with a real government commitment, an effective, affordable defense could be deployed within 5 years.[11] The Clinton Administration on the other hand repeatedly states that no Russian or Chinese missiles are now targeted at the U.S. and that no other nation yet has missiles of the range to reach the mainland.[12] The president uses NMD as a bargaining tool with the Russians to achieve other objectives. At different times it has been linked to SALT 11, provision of early warning data to Russia, NATO expansion, and even the bombing of Iraq.[13] In a speech on Russian television in mid March 1999, Prime Minister Primakov claimed that provided Russia ratified the Start 11 agreement, Clinton would not approve the deployment of an NMD.[14]

Prior to the passage of the Missile Defense bills in Congress the U.S. policy had been to invest sufficient to develop an NMD, but not make any decision on deployment until later. The original plan called for thtree years to demonstrate a capability, allowing a further 3 to deploy if necessary. This overly ambitious 3 + 3 was modified to a 3 + 5, with the demonstration due to be made by mid 2000. The progress has been far to slow to meet this objective, so it seems likely that the dates are certain to slip further.[15] How this policy will change following the Congressional support for deployment of a defense is not yet clear.

In contrast, in Europe the topic is seldom raised by legislators, has not been a real issue in defense reviews and the public are hardly

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aware that a problem might exist. In short Missile Defense could not be described as a contentious issue, it could not even be described as an issue at all.

Technical Capability

The U.S. have invested heavily, if not always wisely, in the technologies underlying missile defense. Although they undoubtedly have a significant lead over the rest of the world in areas of space sensing, communications, kinetic hit-to-kill technology, and directed energy weapons, they have not yet succeeded in incorporating these individual technologies into an effective missile defense system. The complications involved in producing a system are significant, and the time and cost of achieving success have consistently been underestimated.[15]

As an example drawn from the ongoing theater missile defense (TMD) program, the updated system Pac 3 will incorporate a hit-to-kill missile (perhaps more accurately termed a hitile), into the well proven Patriot system. This hitile had been in separate development for close to 15 years before the decision to incorporate it in Pac-3 was taken in 1994. Despite the apparent simplicity of this update to Patriot, the first full system interception test was conducted only in March 1999. It was successful, but many more will have to be undertaken before Pac 3 can enter service.

Another example chosen from the same program is the Theater High Altitude Area Defense (THAAD) system. This was conceived as an upper tier system designed specifically to defend against longer range missile attacks, such as will be encountered in NMD. It's development history gives some insight into the complexities of such activities. The RFP for THAAD was issued 10 years ago and the missile has been in development for over 5 years, consuming some $4 B. After nine test flights it has yet to perform well enough to provide any confidence in it's design.[16] The DOD is presently reviewing the future support for this system, despite the satisfactory development of the other components, such as the launcher and the radar. Another missile test is due to be held shortly, but success will represent only a step forward in what remains a long and complex program.

Such examples are far from exceptional. System engineering is a complex, time consuming and costly enterprise. For a missile

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defense to operate effectively the component subsystems have to do more than merely communicate, they have to be able to utilize appropriately the information that is transmitted between them. This in turn means that each of the component systems has to be subjected to some degree of modification as the integration process proceeds to enable the whole system to achieve the design objectives. It is only recent developments in communications, computing power and other technologies that has enabled the U.S. to aspire to the achievement of such complex systems as a truly capable national missile defense. Desirable as they are, the realization of those aspirations can only be achieved through the implementation of a soundly based, reasonably paced program.

The Americans have invested over $50 B since starting the SDI program in 1983. Not all of it has been spent wisely, constant changes in priorities have led to false starts and waste. But nonetheless as noted earlier they now hold a significant lead in many of the essential technologies. Thus although Europe would not have to invest as much to catch up, even a well conceived program will be very expensive, and certainly beyond the affordability of any single country.

Throughout the existence of the SDI program the US have made valiant efforts to keep allies informed of their plans and their technical progress. Much of this was designed to raise the awareness among the allies of the need for BMD, in the expectation that this would lead to allied participation. However despite these regular briefings, and even generous funding of studies by allied governments and industry, no comprehensive policy was ever formulated to bring allies into the program. As a result the industry of nations that signed SDI MOUs were able on occasions to secure some sub-contracts within the U.S. programs, but no genuinely cooperative efforts were initiated until MEADS, medium range extended air defense system, was started in 1995 as a four power program. No specification for MEADS had been agreed before the program was announced, which led many to believe that it was a political initiative. The French withdrew after a few months leaving only Germany, Italy and the U.S. involved, with America committed to providing 60% of the funding. Despite a continuing requirement in all three countries for a such a system, financial difficulties within the U.S. appear likely to lead to their withdrawal, leaving their partners most disgruntled.[17]

Nearly every European country which has attempted to

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undertake joint technical development with the U.S has a tale to tell regarding cancellation of partly completed efforts. These cancellations often relate to either technology exchange, or budgetary difficulties within the U.S. and extend well beyond BMD issues, covering the whole spectrum of defense. Overall they point to America being an unreliable partner for joint development of defense products, despite their wealth of technology which makes them appear so attractive.

It is surprising, but true, that this succession of disappointments in attempting to co-develop with the States, has not led to much greater cooperation within Europe. Partly this can be attributed to the technology lead America has established in so many fields making them the partner of first choice, and partly to the different aspirations of the individual European Governments with regarding to supporting home based defense industry. Whatever the reasons, while there have been examples of collaboration in some defense projects, there is no evidence yet that BMD will become a significant European activity.

Financial Commitment

We have seen that America has made a very heavy investment in BMD, but even continuing to commit $3.5 B a year will be inadequate to bring all the required programs to a successful conclusion in a timely manner. An effective defense has to combat a variety of threats, ranging over ballistic missiles, and aircraft and cruise missiles travelling at sub and supersonic speeds. Population defense can only be achieved if the bulk of the attacking missiles are successfully intercepted at long range, with only the leakers taken out nearer the target. No single sensor nor interceptor can meet all these requirements, so a family of systems are required. These criteria were reinforced by the conclusions of the British SDR that the major concern was WMDs, and for maximum defense effectiveness, these have to be tracked and intercepted well away from the target. That is the reason that the U.S. program has so many systems under development; Pac 3, THAAD, Naval TBMD, Naval Theater Wide BMD, SBIRS, ABL, and NMD.

The Director of BMDO admitted recently that the projected resources are inadequate to complete all these programs in an appropriate timescale.[18] As a result there has been a suggestion that only the more successful of THAAD and Naval Theater Wide BMD, will enter full development. To add to the problems, SBIRS is being

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delayed because of poor development performance, and no money has yet been allocated for CM defense. In January 1999 Secretary of Defense Cohen announced that $6.6 B would be added to the funding levels for NMD, bringing the total to $10.5 B through F.Y 2005.[19] Although, according to Congressman Weldon, the bulk of this money is expected to be allocated to development, some will be available to enable commitments to be made on long lead items associated with NMD deployment, once a decision to deploy has been made.[20]

Thus despite the very large investment already made, and the financial commitment to some aspects of the future program, it cannot yet be claimed that adequate funding has been allocated to ensure the American deployment of either a TMD or an NMD.

These very large sums invested and allocated in advanced budgeting for BMD, have undoubtedly concerned European MODs. The philosophy that a threat cannot be acknowledged unless a counter to that threat can be both afforded and achieved technically, appears to inhibit real discussion of the risks of the missile problem. It seems that the substantial investment of the U.S in BMD, coupled with the slowness in producing any effective defensive system, has forced European Governments to shy away from even considering active defense.

Freedom Under International Treaties

This topic probably has more complexities than any of those previously discussed. The ABM Treaty signed in 1972 between the U.S. and the USSR was specifically designed to prevent the deployment of a strategic defense. Many of the problems now being encountered stem from American attempts to modify the Treaty in a manner that would allow a defense to be deployed, without undermining the concept of continued strategic vulnerability. It is hard to find wording to fudge such clear differences, and even harder to agree on an architecture that could provide effective protection only against rogue nations missiles. Although some legal experts claim that with the breakup of the Soviet Union the Treaty ceased to exist, the Clinton Administration continues to insist that the Treaty provides a cornerstone of U.S. security policy, and have spent the past 6 years attempting to negotiate with the Russians a means of continuing with NMD activities while still subject to the strictures of

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the Treaty.

In summit meetings between Clinton and Yeltsin, agreements have been made to extend the parties to the Treaty to include Belarus, Kazakhstan and Ukraine. They also agreed to limit space-based cueing of missile interceptors and to ban space based interceptors.[21] As noted previously Primakov, in a speech on Russian TV claimed that Yeltsin and Clinton had agreed that provided START 11 was ratified by the Duma, the U.S would not deploy an NMD. This aspect of the agreement has not been released within the States, and in fact none of the other agreements made in 1997 have been passed to the Senate for ratification. Nonetheless the restrictions on capabilities are being applied by the DOD to the plans now being made for the defense architectures. This means that the capabilities of even a limited defense are being artificially inhibited to an extent that will so reduce it's capability as to make it virtually ineffective.

Although the Treaty specifically excluded TMD, improvements in tactical missiles since 1972 has brought some of these systems closer to the capabilities of Submarine launched missiles which were covered by the Treaty. As a result, opponents of any form of missile defense, have claimed that a fully capable TMD would have some residual capability to intercept missiles covered by the Treaty and therefore cannot be deployed. This form of argument led to the agreement to limit space based cueing for THAAD, and also to limit the acceleration of defensive missiles. Both of these limitations would prevent TMD providing adequately effective protection for large urban areas, and therefore precludes population defense.

Formally only America and Russia are restricted from deployment of a strategic defense by the ABM Treaty. Although the as yet unapproved addition of Belaurus, Kazakhstan and Ukraine, presumably brings them too into the regime. What is strange is that although no NATO allies are signatories of the Treaty, it has acquired such a status over the past 27 years, as the first effective arms control agreement, that all appear to consider themselves bound to uphold it. The effect has been that while the Treaty remains in force, none of the European NATO partners consider themselves free to deploy a missile defense. Whether or not the Treaty is being used as a shield to hide behind, or whether the emotional attachment to the Treaty is overwhelming, is a question that still remains to be

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answered.

What Can Be Concluded From This Analysis?

1. BMD is not an easy or cheap activity. Even after investing over $50B in BMD the U.S. do not yet possess a single system with the capability of intercepting a single missile. There is an expectation of deploying Pac 3 within two years, but that will still restrict defense to specific limited areas, such as an airfield or a port.

2. As further examples of the complexity involved in developing such systems, the present predicted date for THAAD availability is 2006, some 18 years after the RFP was first issued. Until THAAD or Naval Wide Area BMD (scheduled for 2007) becomes available, there will be only limited capability of providing defense for troops, and virtually nothing for civilian populations.

3. The current budget allocation for Pac 3 purchases restricts the numbers to less that those originally requested by the Army for it's own purposes. The approved level of buy certainly seems to be insufficient to provide excess for adequate protection of multinational groups.

4. European troops sent to crisis areas will remain open to missile attack unless the purchases of Pac 3 are increased significantly. With budget limitations already restricting the U.S. program there seems to be no reason for the Americans to purchase more merely to protect the allies. If the allied NATO forces require missile defense assets, it should be up to European governments to make the necessary provision. At the present time there does not appear to be any alternative to the Pac-3 system, although the Naval TBMD on Aegis could provide similar limited coverage for coastal engagements.

5. It is almost certain that European MODs will not take the missile threat seriously until the subject is raised to Cabinet level, or some rogue nation launches an attack. It follows therefore that some action should be taken to initiate Cabinet discussion, before a rogue nation initiates it for us.

6. There will be no pressure from public opinion, unless specific action is taken to inform the electorate of the increased risk of doing nothing. The media would have to encouraged to help generate a public debate.

7. Geography and cost make it imperative that Europe

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cooperates on BMD. National programs are not the way to proceed, with the possible exception of each nation taking responsibility for a major subsystem, as part of an overall European BMD. At the moment there is no evidence of Europe coming together in this manner even though there is no alternative to international cooperation.

8. The MEADS experience indicates that America remains a most unreliable ally for joint development. The division of responsibilities between the Executive, Legislative, and Administrative branches of American government makes it extremely difficult for them to fulfill agreements. Every U.S. Secretary of Defense for the past 25 years has stated that international development is a primary objective, and each in turn has been frustrated by his own procedures and culture. Co-production with American companies may be an option, but don't look for co-development.

9. Despite the investment of over $3.5 B annually the Clinton administration still seems to be far more concerned with preserving the ABM Treaty than deploying a TMD or an NMD. If Europe decides to invest in missile defense it should be on the basis of how it will attempt to collaborate with the next U.S. Administration, there appears to be no BMD future with the present one.

The Way Ahead

Those who recognize the growing risk have to become advocates for the need for investment. A strong case presented solely by industry will inevitably be treated with a degree of suspicion of "make work". This does not mean that industry representatives should not participate, but that the lead will have to be taken by influential Think Tanks. The facts have to be hammered home to Parliamentary Committees, and to leading politicians. As we have seen, if it does not get aired in Cabinet, it will not get the necessary support within MOD.

BMD does not mean the abandonment of deterrence, it aids and supports deterrence. The absence of a defense encourages rogue nations to acquire offensive missile systems. As of now they are viewed as the perfect weapon with which to threaten, because they provide an effective form of long range power projection and once launched there is no way of stopping them.

Europe has to break out finally of the mold in which it looks to

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America to provide protection for it's forces and it's populations. This theme grew during the cold war, when the concept of extended deterrence, provided a form of nuclear protection for Europe. Who now believes that America would launch a nuclear response, if one of it's NATO allies were attacked? If the rogue nations are not convinced of that hypothesis, then much of the theory of deterrence starts to fail.

We could all learn something from Israel. They recognized a real threat and took whatever action was necessary to deal with it. They accepted financial and technical assistance from America, but maintained their own independent program. If a crisis arises in the next few years in which the threat of missile use is probable, the U.S might have to look to Israel for assistance rather than the reverse. An interesting thought that European governments might like to ponder. It might suggest that they could follow the Israeli example, or risk the consequences.

The conclusion of this review has to be that there is no likelihood of European nations investing in BMD in the foreseeable future. All the signs are that this is a mistaken policy which could reduce the international influence of the leading nations by leaving them open to threats of attack, if not actual devastation. There is little evidence that this decline in world influence of Europe will be halted until a missile attack is actually launched against one or more countries.

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The Spratlys and Other South China Sea Islands Disputes

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The potential large scale suboceanic oil deposits has made the Spratlys and other South China Sea uninhabited islands the subject of conflicting territorial claims by China, Vietnam, Malaysia, Brunei and the Philippines.

Key Words: China, Vietnam, Malaysia, Brunei, the Philippines, Spratly islands, Paracel, Pratas, Macclesfield Bank, South China Sea, international disputes, oil reserves.

While the end of the "Cold War" witnessed the elimination of the USSR, tensions remain in Eastern Asia and territorial disputes among countries there remain an important source of adversarial relations. This article seeks to summarize the disputes which have arisen over the Spratly, Paracel, and other low-lying coral reefs, atolls and shoals in the South China Sea, the sovereignty of which is contested in whole or in part by the People's Republic of China (PRC), Taiwan, Vietnam, Philippines, Malaysia and Brunei. Sovereignty talks over these South China Sea islands have hardly begun, and popular forces unleashed by the process of political change and economic difficulties in the region will only complicate matters, as will the struggle for influence over policy-making between China's military and foreign affairs establishments. However, the South China Sea also lies astride sea-lanes of strategic importance and its seabed is potentially rich in hydrocarbon. As such, it is imperative that we take into account the role of transnational actors, such as multinational oil companies or participants of confidence-building workshops, and the claims of sub-national actors, in influencing the actions of state leaders or government negotiators.

A Brief History of Claims

The PRC, Taiwan and Vietnam each lay claim to all of the disputed South China Sea islands; Malaysia and the Philippines claim several but not all of the Spratly islands, and Brunei claims one submerged reef. The PRC and Taiwan both assert the same historical claim that the South China Sea islands have been Chinese territory

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since ancient times, based on archaeological findings of ancient Chinese coins, pottery fragments and cooking utensils most probably left behind by Chinese fishermen to the area.[1] However, it was only when the French colonial authorities of Vietnam asserted its presence over the islands in 1933 that the first effective administration was established over them.[2] Between 1939 and 1945, the Paracel and Spratly island groups were occupied by Japan and turned into submarine bases. After the Japanese surrender, a naval contingent from the Republic of China inspected the Paracels and the Spratlys and briefly garrisoned the largest island in the Spratly groups called Taiping or Itu Aba before withdrawing to Taiwan on the heels of the Nationalist defeat.[3] The Philippine's claim to the Spratlys was based on the discovery of several islands in the archipelago by a Filipino national by the name of Tomas Cloma in 1947, on the basis of which he declared a state of "Kalayaan" (Freedomland) with himself as government leader.[4] Although Cloma transferred his claim to the Philippines government in 1971, already his earlier proclamation of ownership had spurred Taiwan to reoccupy Taiping Island and the Republic of (South) Vietnam to assert its claim to the Paracels and Spratlys in 1956.[5] In September 1973, the South Vietnamese navy occupied several islands in both island groups, but lost the Paracels to the Chinese after a brief naval engagement in January 1974. The government of reunified Vietnam subsequently took over the South Vietnamese claims, but its position was undercut by North Vietnamese support for Chinese sovereignty claims in 1956 and 1958, the latter in the form of a letter sent by North Vietnamese Premier Pham Van Dong to the Chinese State Council.[6] The more recent claims of Malaysia and Brunei are based on the extension of their continental shelf and 200-mile Exclusive Economic Zone (EEZ) respectively to include the islands under dispute.

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[1] *China's Indisputable Sovereignty over the Xisha and Nansha Islands* – Document of the Ministry of Foreign Affairs of the People's Republic of China (Beijing: Foreign Language Press, January 30, 1980), 2-4.

[2] Marwyn S. Samuels, *Contest for the South China Sea* (New York: Methuen, 1982), 61-63.

[3] Ibid., 76-77.

[4] Ibid., 81-82.

[5] Ibid., 84-86.

[6] *China's Indisputable Sovereignty over the Xisha and Nansha Islands*, 17-19.

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Petroleum Prospecting and the Involvement of Foreign Oil Companies

The PRC's first assertion of authority over the Spratlys came in March 1988, when its navy sank three Vietnamese transport ships and killed seventy-two Vietnamese soldiers in a brief engagement at Johnson Reef.[7] By then, the Spratlys were not only developing into an important fishing ground for China, Vietnam and the Philippines; more importantly, test drilling on the adjacent seabed was yielding vast estimates of petroleum. All of the countries that currently claim ownership over the Spratlys are signatories to the Third United Nations Conference of the Law of the Sea (UNCLOS III), which permits the establishment of an Exclusive Economic Zone of 200 miles around an inhabited island. As such, demonstration of sovereignty over the islands would confer upon the claimants the legal right to control and develop the area's energy resources, which they all need to fuel their rapid economic development. There is no question that the technology is available for deep-water drilling, although the size of the reserves and the price of crude oil must be high enough to justify the expenses. There is considerable seabed within 1000 meters in the Spratly vicinity; in some parts, 4000 square miles of seabed lies in less than 200 meters of water.[8] With world oil demand projected to grow by 6.2 million barrels per day between 1995 and 2000, and China and the countries of the Association of South East Asian Nations (ASEAN) accounting for almost 40% of the increase,[9] the South China Sea has potential to be a bonanza to regional governments and major oil companies of the world. The *China Geological Newspaper* reported in May 1989 that surveys carried out by the Chinese Ministry of Geology and Mineral Resources indicated the presence of some 130 billion barrels (bb) of crude in the vicinity of the Spratlys.[10] Estimates by foreign oil

[7] Lee G. Cordner, "The Spratly Islands Dispute and the Law of the Sea," in *Ocean Development and International Law*, vol. 25, 1994, 64.

[8] "First Deep-Water Oil Field in South China Sea Put Into Production," in FBIS-CHI, June 12, 1996, from Beijing *Keji Ribao* (Science and Technology Daily) in Chinese.

[9] *OPEC Bulletin*, May 1996, 16.

[10] Michael Leifer, "Chinese Economic Reform and Security Policy: The South China Sea Connection," in *Survival*, vol.37, no.2, summer 1995, 44.

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companies were invariably less optimistic.[11] However, even if only one-tenth of the Chinese estimate is confirmed, potential oil reserves in the disputed archipelago will still be greater than the proven reserves of 12 bb for the East China Sea alone, or 9 bb for the Yellow Sea and Bohai Gulf combined.[12] China became a net oil importer in 1993. With no new oil finds, imports are conservatively projected to exceed 2 million barrels per day in year 2000.[13]

Due to financial constraints and technological difficulties associated with the exploration of oil in the Spratlys, foreign investment from Western companies and joint ventures with them by China and Southeast Asian countries will be necessary for the foreseeable future. In 1980, Total Chine of France became the first international petroleum company to enter into a contract with China to drill for crude oil in the South China Sea. Since then, the participation of multinational oil companies from the United States, Japan and Europe in offshore oil exploration in the South China Sea, usually in the form of consortiums, has the effect of internationalizing the dispute. Many of these oil companies not only have business dealings with more than one country contesting the islands; they also have close connections with their home governments. These companies would not want to get involved in a regional conflagration, and neither would their home governments, which in the event of a crisis, may be reluctantly pulled in to protect the interests of their nationals. Hence these oil multinationals are likely to establish linkages and communication channels to exert influence on both host and home governments to prevent an outbreak of hostilities which would damage their interests and the collective interests of the oil industry. In this sense, foreign oil companies can exert a positive influence on China and the other regional claimants to adopt a more cooperative posture in order to ensure a peaceful environment conducive to foreign investment. However, it is also conceivable that

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[11] In 1988, United States geologists estimated reserves of 2.1 to 15.8 bb of oil, while Russian estimates put the figure at 7.5 bb of oil equivalents, 70 percent of which is probably gas resources. Bruce Blanche and Jean Blanche, 'Oil and regional stability in the South China Sea,' *Jane's Intelligence Review* 7, November 1, 1995, 513.

[12] Mamdouh G. Salameh, "China, Oil and the Risk of Regional Conflict," in *Survival*, vol.37, no.4, winter 1995-96, 134.

[13] *China Daily*, December 24, 1989.

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they may separately call upon their host governments to back up their oil exploration contracts with force, in the event of intervention by an outside party. As oil multinationals have the influence and resources to be employed toward resolving or exacerbating the territorial dispute, their attitude and behavior toward the claims and claimants obviously matter.

In February 1992, the Chinese government enacted a law on territorial waters which stipulated by name, the South China Sea island groups of Pratas, Paracel, Macclesfield Bank, and Spratly, which they called Dongsha, Xisha, Zhongsha, and Nansha, together with some other islands, as belonging to the PRC. Three months later, the Chinese government entered into a joint-venture agreement with Crestone, an American company, to explore for oil in a block of sea at the westernmost edge of the Spratly group. Over Vietnam's protest that the drilling will be taking place on its continental shelf, Chinese officials reassured Crestone's chairman that, if necessary, the Chinese government would deploy its entire navy to back up their contract with him.[14] The selection of an American company was a shrewd ploy by the Chinese to minimize the chances that Washington would move against Chinese seizure of more islands, in anticipation that its oil companies would be the main beneficiary of any offshore petroleum development projects in the region initiated by China. Also, if Washington does intervene against China, it would undercut the position and immeasurably increase the risk of every American oil company prospecting in China. Involvement of foreign oil companies seems to be the preferred strategy by the Chinese to stake claims to their oil interests and sovereignty in the South China Sea. Between 1979 and 1994, more than US$3 billion in foreign funds have been invested in oil prospecting joint ventures between oil multinationals and companies under the aegis of the PRC's China National Offshore oil Corporation (CNOOC) in the South China Sea.[15] Between 1995 and 1996, CNOOC contracted with Chevron to explore three blocks all located between China's Hainan island and the Paracels.[16]

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[14] Sanqiang Jian, "Multinational Oil Companies and the Spratly Dispute," in *Journal of Contemporary China* (1997), 6(16), 598.

[15] *China Daily*, December 19, 1994, 6.

[16] "PRC: Oil Firm, Chevron Sign Oil Exploration Contract 16 May," in FBIS-CHI, May 16, 1996, from Beijing XINHUA.

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However, China is not the only country with a strategy to involve foreign oil companies to stake territorial claims to the disputed South China Sea islands.

China's move encouraged Vietnam, another oil importer, to invite tenders to develop the Thanh Long (Blue Dragon) and Dai Hung (Big Bear) fields adjacent to the Crestone operation in 1994.[17] At present, all of Vietnam's oil production comes from a single offshore field that was developed with Soviet help in the 1980s. The Chinese contend that the oil fields to be developed lie within China's claim of the South China Sea, in retort to which Vietnam reiterates that the Crestone concession lies on its continental shelf. In July 1994, China blockaded a Vietnamese rig operating within the Wan'an Bei-21 block, which China had leased to Crestone three months before.[18] In 1995, after Vietnam drove off a Chinese seismic survey ship in that Crestone block, Chinese warships blockaded a Vietnamese rig in the "Blue Dragon" area, which Vietnam had awarded to a consortium of American-Japanese oil interests led by Mobil.[19] In April 1996, when the American oil company CONOCO negotiated for Vietnam's blocks 133, 134 and 135 which overlapped the Wan'an Bei-21 concession, China threatened to retaliate against the interests of CONOCO's parent – Dupont – in China.[20] The presence and involvement of foreign oil companies until now only seemed to have fuelled the dispute. Indeed, foreign oil companies should also have cause for concern that they may become pawns used by China and other regional countries to extend their influence into the South China Sea.

Although Malaysia and Brunei are both basically self-sufficient in petroleum, domestic consumption of the fuel has been rising faster than production throughout the 1980s and 1990s.[21] With regard to

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[17] Lee Ngok, "Fishing in Trouble Waters?: Chinese Strategic Considerations in South China Sea," in *American Asian Review*, vol. XII, no.4, winter 1994, 112.

[18] Craig Snyder, "The implications of hydrocarbon development in the South China Sea," in *International Journal*, LII Winter 1996-7.

[19] Henry J. Kenny, "The South China Sea – A Dangerous Ground," in *Naval War College Review*, vol. XLIX, no.3, summer 1996, 97-98.

[20] Mark J. Valencia, "Asia, the Law of the Sea, and IR," in *International Affairs*, 73, 2 (1997), 270.

[21] Alice D. Ba, "China, Oil, and the South China Sea: Prospect for Joint Development," in *American Asian Review*, vol. XII, no.4, winter 1994, 135.

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the oil situation, the Philippines is in the direst straits, with a 95 percent dependency on import and disappointing strikes in offshore drilling between Palawan and the Spratlys.[22] Unsurprisingly, the Philippines has been the most vocal and active proponent of joint development of the Spratlys. Indeed, the President and Foreign Secretary of the Philippines were prime movers behind the "ASEAN Declaration on the South China Sea" adopted at the group's annual ministerial meeting in July 1992, by which declaratory states agreed to the principles of joint development, settling all disputes without the use of force, and refraining from further territorial acquisitions.[23] Despite having endorsed the Declaration, China, aware of its market size and bargaining power vis-à-vis its Southeast Asian neighbors and foreign oil companies, shrinks from entering into any cooperative arrangements the terms of which it feels it cannot dictate. Chinese Premier Li Peng did say in an August 1990 press conference in Singapore that China was prepared to set aside the question of sovereignty to join with Southeast Asian countries in developing the marine and seabed resources surrounding the Spratlys. Still, China proceeded to sign contracts with foreign companies on oil and gas exploration without the participation of any other claimant state.

"Track II"

In the meantime, efforts at building confidence and security cooperation are being carried out by non-governmental organizations (NGOs) through so-called "Track II" channels in the Southeast Asia region. In parallel to the security dialogues which government ministers from ASEAN are having with officials from Asia-Pacific countries at its Post-Ministerial Conferences (PMCs), "Track II" multilateral unofficial consultative meetings focus on political and security issues considered too "sensitive" or "disputatious" to be raised at the "Track I" level. Two of the most well-established and comprehensive second-track arrangements in the Asia-Pacific region are the Council for Security Cooperation in the Asia Pacific (CSCAP) and the annual 'Asia-Pacific Roundtable' organized by the ASEAN Institute of Strategic and International Studies (ASEAN ISIS). These

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[22] Ibid., 132-133.

[23] Lee Lai To, "ASEAN and the South China Sea Conflicts," in *Pacific Review*, vol.8, no.3, 1995, 538-9.

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"Track II" processes are financed by both government and private academic institutions, foundations and "think-tanks" and usually involve meetings of academics, journalists, business people, and government officials from foreign and defense ministries attending in their own capacity. With regard to the South China Sea dispute, China has demonstrated a preference for bilateral negotiations, where it feels it has more leverage over its counterpart. An important function of these informal discussions is to coax the Chinese into committing to multilateral arrangements.The most relevant of these "Track II" arrangements for our purpose is the annual series of workshops on "Managing Potential Conflicts in the South China Sea" initiated in 1990 by Indonesia's Foreign Affairs Department Research and Development Agency and funded by the Canadian International Development Agency. Indonesia was able to play the role of a neutral facilitator as it is the largest of the Southeast Asian countries in terms of land area and population, and it is not directly involved in the South China Sea territorial disputes. The first workshop, which met on the Indonesian island of Bali in January 1990, was basically an opportunity for officials, academics, and others from ASEAN and resource persons from Canada to meet, in their "private" capacity, and present their "personal" positions on furthering cooperation in the South China Sea.[24] When the second workshops met in July 1991, the invitees included participants from China, Taiwan, Vietnam and Laos, in addition to those from the ASEAN states and Canada.

Since China is a major player in the dispute, and Taiwan maintains a military presence in the Spratlys, Indonesia thought it realistic and appropriate to include both countries in that workshop and subsequent ones. China would have uncompromisingly objected to Taiwan's participation in an official forum, which is a good reason to keep the "Track II" status of the workshop series. Indonesia had also wanted to invite participants from Japan, for 70 percent of Japan's oil import pass through the South China Sea, and it stands to reason that the Japanese are concerned about possible attacks on

[24] Lee Lai To, "Defusing Rising Tension in the Spratlys: An analysis of the Workshops on Managing Potential Conflicts in the South China Sea," in *American Asian Review*, vol. XII, no.4, winter 1994, 189-190.

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their merchant vessels and oil tankers in the event of a conflict.[25] However, China's objection to Japan's participation on grounds that it is not a regional Southeast Asian country, and so has no right to decide on regional issues, could not be surmounted. China does not want to internationalize the Spratly issue for fear of diluting its regional influence and complicating any moves toward eventual settlement. As in the past workshop, the question of sovereignty and boundary delimitation was once again avoided, although the participants did vow to seek peaceful means of resolving disputes and emphasized the importance of joint development of the region's resources at the workshop's end.[26]The enactment of China's law on territorial sea in February 1992 declaring the disputed South China Sea islands to be Chinese territory exposed China to particular scrutiny by participants from other countries in the third workshop of 1992. Two working groups were established to conduct resource assessment and marine scientific research of the Spratlys at the 1992 workshop, but no further actions were taken after they reported their findings to the next workshop in 1993.[27] By the eighth workshop in December 1997, altogether five working groups – the aforementioned two working groups plus the ones on marine environmental protection, navigational safety, and legal affairs – have been established,[28] but the sovereignty issue has yet to be brought up and seriously debated. Since the purpose of the Indonesian workshops is to build confidence and develop cooperation among countries around the South China Sea, the organizers were most careful to avoid discussions or debates on sovereignty claims, as they believed that the ensuing arguments would only produce more heated emotions than rational discussions. While this may have been a wise tactical move to lessen tension in the workshops, which might otherwise have floundered, skirting the sovereignty issue means that the participants have yet to discuss the most fundamental cause of conflict in the South China Sea. Dispute

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[25] Lam Peng Er, "Japan and the Spratlys Dispute," in *Asian Survey*, vol. XXXVI, no.10, October 1996, 998.

[26] Lee Lai To (1994), 192.

[27] Ibid., 193.

[28] "Alatas Opens Workshop on Spratlys 3 Dec" in FBIS-EAS, December 4, 1997, 4, from Jakarta Media Indonesia.

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over sovereignty should have been, and must become in future, the primary focus of the workshops.

Although the governments of the participants are strictly speaking not obliged to act on the recommendations of the workshops, still, whatever cooperative measures devised by the participants need the support of their governments to have any realistic chance of being put in place. The individuals involved in the workshops are by and large influential opinion-leaders in their own countries with high-level political contacts gained through current or previous government service and personal associations with state leaders. Although participating in their private capacities, the stature of the workshop participants would hopefully carry weight in the reports and recommendations that they have to submit to their governments. Their opinions may be decisive in shifting the priorities of these leaders from contemplating confrontation to pursuing cooperation, although at present neither course of action seems very likely. At the very least, the "Track II" process provides a legitimate and respectable forum allowing for the usually weak and ignored non-governmental voices to be heard concerning security and other international and domestic issues.

In a way, the Indonesian workshops epitomize the so-called "ASEAN way" of problem management which specifically eschews the formal and structural confidence building and arms reduction institutional frameworks favored by Europeans and North Americans. ASEAN as a collectivity has developed an informal and unstructured "consultative process" whereby its leaders and their representatives may postpone a difficult issue or bypass a conflict situation, rather than attempt to resolve them, in hopes that divisive matters will be made irrelevant or innocuous by time or event. Since they came together as a group in 1967, the ASEAN states have been able to put aside their conflicts and differences without necessarily solving them for two interrelated reasons. First, they realized that, as small weak states, intramural conflict would leave them open to potential destabilization from the superpowers and their ideological proxies in the region. Second, they recognized the benefits of augmenting their collective influence in the region by creating the appearance and even substance of a united front when dealing with outside powers.

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ASEAN has arguably been the most durable transnational economic / security regime outside Europe for the past thirty years. However, as the twenty-first century approaches, what ASEAN has to deal with is not a common external threat from superpower intervention or foreign-inspired local Communist movements. Rather, what ASEAN has to manage is the rise of China as a major power, if not the major power, in the South China Sea. The Indonesian workshops have built on the "ASEAN approach" by relying on informal contacts, controversy avoidance, and incremental results. However, China is neither a member state of ASEAN nor a country facing external security threats, but rather a growing military and economic power. Hence, it is difficult to convince China of ASEAN's concerns and rope it into the ASEAN process of issue avoidance and endless consultations. Furthermore, multilateral security cooperation has never been an historical diplomatic norm with China or Southeast Asian countries until very recently, and trust and cooperation among states and peoples take time to build up.

Bureaucratic Tangle in the South China Sea Dispute

It should surprise no one if bureaucratic interests within a country were to shift in response to external threats or opportunities. The struggle for the South China Sea islands resulted in just such a contest for influence between the military and the foreign affairs establishment, two major groups in Chinese politics, with respect to the drafting of China's law on territorial waters in early 1992. Heated discussions reportedly took place between the top brass of the People's Liberation Army (PLA) and the Foreign Ministry as the law was introduced in the National People's Congress, China's legislature.[29] The PLA had, at that time, two representatives in the Chinese Communist Party (CCP) Politburo, and since the mid-1980s, at least one representative on the CCP Central Committee's Foreign Affairs Leading Small Group.[30] However, the military's enthusiasm

[29] "New Law Claims Sovereignty Over the Spratly Islands" in FBIS-CHI, February 27, 1992, 15, from Tokyo KYODO.

[30] The CCP's Central Committee Foreign Affairs Leading Small Group is headed by the Premier and functions as a key policy coordination and supervision mechanism between the Politburo Standing Committee and the entire Foreign Ministry establishment. See Michael D. Swaine, *The Role of the Chinese Military in National Security Policymaking* (Santa Monica,

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for its burgeoning national security role could not apparently be contained within the highest echelons of power. The Foreign Ministry had preferred not to specify the islands claimed by China to avoid diplomatic friction with countries disputing China's claims; however, the General Headquarters of the army, navy, the Guangzhou Military Region and Hainan Province insisted that principles must be maintained which would favor China in future negotiations.[31] Their argument carried the day.

China's sustained push through the South China Sea indicates that the People's Liberation Army's Navy (PLAN) has been fairly successful in its efforts at lobbying for political influence and budget allocation. After becoming PLAN commander in 1982, Admiral Liu Huaqing became a forceful spokesman for the push to the Spratlys, arguing to journalists that one of PLAN's main goals was to assert sovereignty over its rich and far-flung maritime resources.[32] In 1994, PLAN's deputy commander Zhang Xusan used the same argument to pitch for more defense expenditure during the National People's Congress' budget debate.[33] Liu's elevation to the Politburo Standing Committee at the 14th CCP Congress in October 1992 further increased the navy's influence in policy-making. Since 1983, the PLAN has been escorting research vessels dispatched by the Chinese Academy of Sciences and the State Oceanic Bureau to monitor weather and water conditions in the furthest reaches of the Spratlys.[34] In the early 1990s, numerous articles in PLA journals used the Spratlys dispute to argue for faster naval upgrading.[35] Their authors invariably pointed out the great distance between the Spratlys and the Chinese mainland to justify the acquisition of larger surface battleships, long-range SU-72 type fighters, aerial refueling capability, and forward naval bases in the South China Sea. The primary role of PLAN in organizing and conducting South China Sea operations fits

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CA: RAND, 1996), Chapter Three: *Foreign Policy Subarena*, 19-36.

[31] "Foreign Ministry Opposes Law" in FBIS-CHI, February 27, 1992, 15-16, from Tokyo KYODO.

[32] John W. Garver, "China's Push Through the South China Sea: The Interaction of Bureaucratic and National Interests," *China Quarterly*, December 1992, no.132, 1022.

[33] Ibid.,

[34] Ibid., 1008-9.

[35] You Ji and You Xu, "In Search of Blue Water Power: The PLA Navy's Maritime Survey in the 1990s," *Pacific Review*, vol. 4, no. 2, 1991, 137-149.

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well into the navy's augmenting organizational interests. This makes the PLAN a powerful domestic interest group in any negotiations over the sovereignty disposition of the islands. It was most likely to elements in PLAN's South China Sea command that President Ramos of the Philippines was referring when he said he believed the occupation of Mischief Reef to have been carried out by low-level functionaries acting without the knowledge or consent of the Chinese authorities.[36]

Mischief Reef and After

The so-called Mischief Reef incident began when the Philippines armed forces discovered Chinese-built concrete structures on that tiny reef in early February 1995, inside the 200-mile EEZ claim by the Philippines. Three days of bilateral talks in Beijing ended in a stalemate, with China protesting that Mischief Reef is part of Chinese Spratly territory, and that the structures were merely shelters for Chinese fishermen and not military bunkers.[37] The Philippines government then ordered its navy and air force to destroy the structures. Beijing was surprised by the Philippines' move, but it was even more so when ASEAN as a group issued a statement condemning the Chinese action for contravening the "ASEAN Declaration on the South China Sea." Previously, ASEAN members have believed that China would be more amenable to compromise in a context of quiet diplomacy and private dialogue designed to save "face" rather than to engage in a public shouting match. This time, however, China did not seem persuaded, for when the Philippines government arranged for local and foreign journalists to visit other islands claimed by Manila, their boat was blocked by Chinese ships.[38] The Philippines navy retaliated by arresting sixty-two Chinese fishermen in nearby waters for trespassing.[39] After the incident, China's top unofficial spokesman on South China Sea

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[36] Frank Ching, "Manila Looks for a Slingshot," *Far Eastern Economic Review*, May 9, 1995, 40.

[37] "A Line in the Sand," in *Far Eastern Economics Review*, April 6, 1995, 14.

[38] Ross Marlay, "China, the Philippines, and the Spratly Islands," in *Asian Affairs – An American Review*, vol.23, no.4, winter 1997, 207.

[39] "A Breakthrough on the Spratlys," in *Asiaweek on Line*, August 25, 1995. Internet source <http://www.pathfinder.com/asiaweek/95/0825/nat3.html>

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affairs, Pan Shiying, told American officials that if China's offer for talks on joint development were rebuffed, "it will have no choice but to take over the islands forcibly."[40] This can only mean that if countries were to negotiate with China, they will be recognizing its claims to parts or all of the Spratlys. If they do not negotiate with China, then China will continue its "salami-slicing" tactics of acquiring the disputed islands, reefs and atolls, thus creating a fait accompli for the Southeast Asian countries.

Ramos had already decided to allow a Filipino affiliate of the American energy firm Vaalco to explore for oil in the Reed Bank area of the Spratlys.[41] To forestall further Chinese moves, the President threatened to invoke the Mutual Defense Treaty between the Philippines and the United States, and the Philippines Congress passed a 50 billion peso (US$ 2 billion) program to upgrade the country's armed forces.[42] In an attempt to bring more countries into the discussion, the Spratly issue was highlighted by the ASEAN countries when the annual ministerial ASEAN Regional Forum (ARF) on security met in Brunei in July 1995. To diffuse regional tension, Beijing told Manila privately that the Chinese would not build any new structures in the disputed area with the Philippines,[43] and subsequently offered to discuss the South China Sea dispute with ASEAN as a group at its 1995 summit in Bangkok.[44] This offer constituted a major offer on China's part, given that it had previously insisted on conducting only bilateral talks. However, it appeared with hindsight to have been no more than a tactical ploy to calm the concerns of ASEAN countries, for by March 1996, the Chinese had reconstructed the structures on Mischief Reef which had been destroyed by the Filipinos.[45] Coinciding with a series of artillery barrages across the Taiwan Straits, Beijing's assertive stance on the

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[40] Nayan Chanda, Rigoberto Tiglao, and John McBeth, "Territorial Imperative," *Far Eastern Economics Review*, February 23, 1995, 14.

[41] "Ramos Defends Oil Search in Disputed Waters," in FBIS-EAS, July 6, 1994, from Tokyo KYODO.

[42] Rodney Tasker, "Ways and Means," in *Far Eastern Economic Review*, May 11, 1995, 14.

[43] "The Claim on the Kalayaan Islands in Spratlys Group," in *BusinessWorld – Weekender* (Philippines), February 14, 1997.

[44] Ross Marlay, 207.

[45] Ibid.

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Spratlys was explained by ASEAN officials and scholars as an attempt by the PLA and its navy to capitalize on CCP Secretary General Jiang Zemin's political vulnerability to promote its own importance and interest. Be that as it may, there is nothing to indicate that the Chinese would compromise on territorial claims, even assuming that the leadership transition to a post-Deng Xiaoping era is smooth. There is a prevailing sense within ASEAN that China is stalling for time until it is powerful enough to assert sole ownership of the disputed South China Sea islands. How else can one explain why, while accepting the principles of negotiated settlements and joint exploration, China has proceeded to occupy more islands and grant additional oil exploration contracts? Possession of the Spratlys will not only confer upon the Chinese tremendous pride in the symbolic restoration of China's great power status in Asia, it would make China a key participant in Southeast Asian affairs.

Underlying China's military intervention at both Johnson and Mischief Reefs in 1988 and 1995 is probably China's concern that its claim risks being marginalized by not actively asserting its presence in the Spratlys. China is very suspicious of what it interprets as attempts by ASEAN claimants, with the support of the other members of the group, to divide the Spratly claims among themselves. Already in January 1992, Vietnam and Malaysia had reached an agreement to jointly explore for resources in disputed areas.[46] In April 1996, Vietnam and the Philippines sent a team of research scientists from both countries on board a Philippines government ship for a 15-day mission to take an "inventory of marine organisms" in the Spratlys.[47] As to the tussle between China and Vietnam over offshore petroleum concessions, ASEAN has been remarkably silent. In fact, China would be putting itself in the most advantageous position in any future discussion on the sovereignty of the Spratlys if it demonstrates flexibility on the continental shelf and EEZ claims of Malaysia and Brunei respectively. These countries are contesting the least number of islets and reefs compared to the other claimants, and

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[46] Cheng-yi Lin, "Taiwan's South China Sea Policy," in *Asian Survey*, vol. XXXVLL, no.4, April 1997, 328.

[47] Ross Marlay, 207.

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so doing would not only allow China to delimit its southernmost baseline and legitimize its presence in the archipelago, it might even turn ASEAN members against one another. However, any concession on China's territorial sovereignty claims over the Spratlys would compromise China's contested claims everywhere else, so this scenario would not likely come true.

Although Taiwan maintains its own separate claim to the South China Sea islands, its role in this on-going South China Sea imbroglio has been very contradictory, which perhaps mirrors its own identity crisis. After the March 14, 1988 clash between China and Vietnam, the Taiwanese Defense Minister said that if China had requested help from Taiwan's garrison at Taiping island, which it had maintained since 1956, the Taiwanese would have given it.[48] For nationalistic reasons, people such as political figures in the pro-unification New Party would prefer to see the Spratlys occupied by the PRC rather than by ASEAN countries.[49] Since Taiwan was admitted to the Indonesian workshops in 1992, its participating officials and academics have been very vocal in reiterating the PRC's stance that the disputed islands have historically belonged to the Chinese people and outstanding issues can be settled only if "Chinese" sovereignty is not affected.[50] In that spirit, the Vice-President of China's CNOOC could announce that, as of August 1995, China and Taiwan would collaborate on oil and gas exploration and exploitation in the South China Sea, as both sides are "like a family, where no problems such as 'sovereignty' issues will bother either side."[51] The problem with identifying too closely with the PRC's position on "Chinese" sovereignty for Taiwan is that it may find its own claim marginalized by both China and the other claimant states.

Scarborough Shoal: Sub-national Actors at Play

Lying in the vicinity of the Macclesfield Bank, 200 kilometers

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[48] Shim Jae Hoon, "Blood Thicker than Politics," *Far Eastern Economic Review*, May 5, 1988, 26.

[49] Cheng-yi Lin, 332.

[50] Chen Jie, "China's Spratly Policy," *Asian Survey*, vol. XXXIV, no. 10, October 1984, 900.

[51] "Beijing Official on Cooperation to Tap Spratlys," in FBIS-CHI, August 30, 1995, from Taipei CNA.

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west of the main Philippines island of Luzon, is a shoal called Scarborough, or Huangyan in Chinese. On May 1, 1997, two Chinese Ocean Bureau ships carrying members of an international ham operators' club from Japan, the U.S. and China were nearing the shoal. It was then that Philippine military jets and vessels appeared and the captains of the Ocean Bureau ships were warned that they were within the 200-mile EEZ of the Philippines.[52] Public opinion in the Philippines saw the ham radio operators as pawns in a claim game conducted by China, in yet another effort to use non-military means such as research ships, oil companies, and then foreign civilians to advance its territorial claims. Their suspicions seemed to have been borne out by the words of a Chinese organizer of the trip, who said that the Chinese government paid thousands of dollars to charter the ships, and the expedition itself was led by a former PLA operator.[53]

In the aftermath of the episode, Filipino Senator Gregory Honasan suggested that his government should train and arm Filipino residents of the Spratly islands to combat future foreign intrusions.[54] Then a Filipino Congressman led a group of his colleagues and journalists to Scarborough Shoal and hoisted their national flag. Although the Philippines government quickly dissociated itself from the action of the activists by calling the adventure a private initiative, it almost immediately announced that it would continue constructing lighthouses on the disputed islands it already occupied.[55] The matter seemed to have been settled after three days of talks in Beijing between the Chinese vice-foreign minister and his Filipino counterpart, with both sides agreeing to establish a committee to review their respective

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[52] "BS7H 1997 Bulletin 13 – 0530Z, 07 May 1997." Internet source <http://www.iglou.com/n4gn/sr/bltns/bltn13.html>

[53] Andrew Sherry and Rigoberto Tiglao, "Law of the Seize," *Far Eastern Economic Review*, June 12, 1997. Internet Source <http://www.feer.com/Restricted/97june_12/region_china.html>

[54] "Philippines: Government Urged to Armed Residents in Spratly Islands" in FBIS-EAS, May 9, 1997.

[55] "Manila To Build Lighthouses in Spratlys" in FBIS-EAS, May 19, 1997.

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territorial claims.[56] Yet in March 1998, the Philippines Foreign Secretary had to warn the Chinese against installing a ground satellite on a Paracel isle and telephone booths on Chinese-occupied islands in the Spratly group, a move first reported by China's Xinhua News Agency.[57]

Unlike the government of authoritarian Vietnam, which stayed calm after losing more than seventy of its men in the 1988 naval confrontation with China, domestic forces in a democracy like the Philippines needed little probing to organize and protest against the perceived Chinese intrusion. As pressures for political change in the region mount, and information becomes more free-flowing, foreign policy is subjected to greater public debate, and nationalistic positions may harden even more, magnifying the stakes while making compromises harder to achieve. While the principal benefits of the creeping closure of the South China Sea accrue to international oil companies and their host governments who collect the petroleum royalties, the cost falls heavily on the fishermen from regional countries. There have been an increasing number of incidents in recent years involving fishermen from the region being arrested, fined, imprisoned, and having their boats confiscated by neighboring governments for allegedly trespassing into their countries' territorial waters or EEZ. These fishermen will have every interest in holding demonstrations and forming lobby groups to pressure their own authorities to claim as much, or at least concede as little, of their country's territorial waters, thus further complicating negotiations. Worse, as leaders seek to reaffirm the basis of their political legitimacy, especially in the event of a potentially regime-threatening crisis such as the current Asian financial and economic turmoil, they may see value in adopting a hard-line stance on sovereignty disputes, thus increasing the saliency of territorial issues.

Conclusion

Despite occasional pressures exerted by assorted nationalists, militarists and adventurers in China and the ASEAN countries, there

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[56] "Philippines: Manila, PRC Agree on Working Group to Avert War in Spratlys" in FBIS-EAS, May 30, 1997.

[57] "Philippines: China Warned on Spratlys Satellite Plans" in FBIS-EAS, March 3, 1998 from Quezon City GMA-7 Radio-Television Arts Network.

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is hope that increasing economic interdependence and deepening political ties will make their leaders more interested in cooperation and create more domestic groups in support of peace and cooperation. China remains firmly committed to economic growth, which is as much a part of the Chinese government's effort to raise the country's international profile as is military power projection. Trade between China and the ASEAN countries increased from US$20.4 billion to US$24.4 billion between 1996 and 1997, accounting for 7 percent and 7.5 percent of China's total foreign trade for the two years respectively.[58] ASEAN countries also have an interest in maintaining a common stance with China at international conferences on issues of human rights, environmental protection, and democratization against "interference" by the West. ASEAN also has some limited success in getting China to accept some degree of multilateralization of the South China Sea issues. Since 1995, China has announced that it will use international law and law of the sea to examine the claims and indicated that whatever it does in the South China Sea, it will not threaten the security of the sea-lanes.[59] The Chinese leadership also reiterated its desire to shelve sovereignty claims in favor of joint economic development for the Spratlys in the report of the 15th CCP Congress in October 1997. This shows that the Indonesian workshops which had built on the "ASEAN approach" of problem management by relying on personal consultations among leaders, postponing difficult issues, and gradually expanding on areas of common interests, did produce some tangible results. Serious engagement in joint development of resources in the Spratlys and adherence to the 1992 "ASEAN Declaration on the South China Sea" provide both China, ASEAN and even Taiwan the best opportunity to show that they are responsible, trustworthy and peace-loving business partners and members of the international community. It would be best for regional governments to come together and establish a consortium of foreign and national oil companies to prospect for petroleum in the disputed Spratly islands. It should also be stipulated that any formula for the exploration and production of oil or gas and the costs and payoffs associated with it

[58] China Business Review, May-June 1997, 41, and May-June 1998, 35.
[59] Lianhe Zaobao (Singapore), August 5, 1995.

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be agreed to and altered only by consensual agreement. So doing will ensure equitable incentive to begin joint development, and at the same time prevent unilateral seizure of territory. The work of this consortium could be overseen by a committee of experts established under the aegis of the Indonesia workshops. Countries should also agree that shoals and sandbanks that are presently submerged not be objects of claim, which would exclude the Macclesfield Bank, and that claim to any island or reef, inhabited or otherwise, carry with it at most a 12-mile territorial sea. Freedom of navigation and over-flight by both civilian and military crafts, a key American demand,[60] should be fully guaranteed to all nations, but the establishment of military bases or fortifications in the disputed areas should be discontinued. For purpose of commercial fishing, the entire South China Sea should be regarded as a semi-enclosed sea surrounded by China, Taiwan and the ASEAN countries, whose governments have both the right and responsibility under UNCLOS III to come together to allocate and regulate the catching and processing of fish. Carrying out the above measures should hopefully integrate and "positivize" the roles played by trans-national, governmental, and sub-national actors in the current dispute to the maximum extent possible under the present circumstances. Only when the economic and security interests of all regional countries become compatible, and in good time, can serious discussions on sovereignty claims be started, or postponed indefinitely.

[60] State Department of the United States, "United States Policy on the Spratlys and South China Sea" (Washington: May 11, 1995).

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The Moldavian-Dnestr Republic: A Geo-Political Game

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The author examines the rival claims of Russia and Romania to the ancient principality if Moldova (Moldavia) and the 1992 Dnestr conflict.

Key Words: Moldavia, Russia, Romania, Ukraine, Trans-Dnestr.

The seeds of perestroika sown in the 1980's unleashed strong aspirations for national independence in the non-Russian republics. Perestroika also sharpened the desire of the Russians living outside Russia to preserve their positions and to keep the country they were living in under Moscow. Russians in various republics were left somehow to fend for themselves and to defend Moscow's interests. In the process, bloody confrontations erupted in the Caucasus, in Central Asia, and in the Trans-Dnestr region of Moldova.[1]

The 1992 Dnestr war was apparently triggered by local Russians, but with the full encouragement and assistance of Moscow. Russia wanted to keep Moldova under control, Romania at bay, and Ukraine under threat. The question is what did the war accomplish?

From the Trans-Dnestr Region to the Dnestr Republic

The eastern half of the old Romanian Principality of Moldova, or Bessarabia as it was better known for many years, occupies the land between the Prut and Dnestr Rivers. The province was annexed by the Russian Empire during the nineteenth century. It became part of modern Romania in 1918, and was reannexed by the Soviet Union together with Northern Bukovina in 1940. In spite of having been a Soviet Republic for over four decades, no reputed scholar doubted its Romanian nature. The Trans-Dnestr region of Moldova is a different story. Except for short periods of time during the Middle Ages, this area has never been part of Moldova or modern Romania. Moscow, however, began to use this region for geo-political reasons very early during the Soviet era. In 1924 when Bessarabia was part of Romania,

[1] Throughout this paper the terms Moldova and Moldavia are used interchangeably.

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the Soviet Union set up a Moldavian autonomous republic in this area of Ukraine with the avowed purpose of reannexing Bessarabia. When Moscow reannexed the province in 1940 and again in 1944, it redrew its boundaries in a very treacherous way. It gave Ukraine the northern and southern reaches of Bessarabia together with most of the territory of the Moldavian autonomous republic. And to complicate the matter, it gave to the new Moldavian Republic a small portion of the left bank of the Dnestr where Tiraspol is located. This is the beginning of a shrewd geo-political game that has served Moscow well for 70 years, but which created a real nightmare in the end.

As long as the Soviet Union was strong and repressive, no republic could think of independence and national boundaries. When the Soviet Union disintegrated and each republic became independent, Moscow began the tedious process of adapting to the new geo-political reality. With regard to Moldova, Moscow tried first to re-attract it to the new "community," but Kishinev refused to join all the functions of the new union pursued by Russia. Instead, the Moldavians organized themselves, elected new leaders, and began to fight for their own goals. In a few years time, they reasserted their Romanian origin and they reimposed the Latin script and the Romanian language. Moreover, for the first time since the 1940 annexation, they began to speak freely of the possibility of reunification with Romania.

The Russians of Moldavia began to show the first signs of concern and opposition towards a possible reunification of Moldova with Romania in the late 1980's and especially after the 1989 Romanian revolution. The Russians complained openly that they might be compelled to learn Romanian and could be discriminated against. They sensed that Moldova would eventually reunite with Romania and they rejected the prospect of losing their privileges. It appears, nonetheless, that the Russians inside Moldova were more inclined to accept such a possibility, but those living on the left bank of the Dnestr opposed it bitterly.

At the beginning, without having any reason to revolt against the Moldavian authorities, the Tiraspol Russians instigated the small Gagauz minority of southern Moldova to declare a separate state. The Russians themselves had brought this small minority to the

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former Bessarabia from present-day Bulgaria during the 19th century. The Gagauz are of Turkish origin, but of Christian Orthodox faith. During the Soviet years, they were induced to Russify and many of them became pro-Russian.

Confronted with the first rebellion by the Gagauz after their leaders declared a separate republic in August 1990, Moldova formed special armed volunteer units and sent them to reclaim the region. In spite of the substantial financial, moral, and military assistance received from Tiraspol, the Gaguaz did not have any chance of sustaining an independent state. That convinced certain Russian circles in Tiraspol and probably Moscow that if they wanted to pursue their own separate agenda Trans-Dnestr had to split from Moldova.[1]

The self-styled Dnestr Soviet Socialist Republic, also called the Dnestr Moldavian Republic, was proclaimed in Tirapol in September 1990. It was promptly rebuffed by the government in Kishinev, and it was never recognized internationally as a legitimate state. In December 1990 Moscow, still under Mikhail Gorbachev, also declared the republic illegal. The newly-elected Russian authorities in Tiraspol, however, convened an extraordinary people's congress and decided to ignore Gorbachev and to establish their own state structures. The new authorities were in control of Tiraspol and other smaller industrial centers in the vicinity and claimed the entire area of Moldova located on the left bank of Dnestr.

The Trans-Dnestr region is a strip of land 2,500 square miles in area. It is about 125 miles long and 10-15 miles wide and makes up one-eighth of Moldova's territory. It is a rich agricultural region and produces a large share of Moldova's agricultural output. The only large city in the region is Tiraspol, but the new Dnestr authorities also claim Tighina (called Benderi by the Russians) and its surrounding area on the right bank of the river.[2]

During some four decades of unchallenged Soviet domination, Moscow built industry and sent to Moldova hundreds of thousands of Russians, Ukrainians, and members of other nationalities. While many of them went to Kishinev and other cities inside Moldova, others went to Tiraspol, which became a jumping board for Soviet industrial managers and party activists. The new Russian migrants did not have to learn the local language because they were the masters of the U.S.S.R., and they lived very much as a superimposed class of privileged people. And whereas some Russians who migrated deep

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inside Moldova learned something about the surrounding people, those in Tiraspol did not undergo any change of mentality. They were simply Russians living in a Russified city outside Russia, but somehow "outside" Moldova as well.

The last Soviet census of 1989 and various other data show that Moldavians were still the largest ethnic group in the Trans-Dnestr region, but no longer a clear majority except in rural areas. In 1989, for instance, the region had some 800,000 inhabitants of whom 41 percent were Moldavians, as compared to 31 percent Ukrainians, and only 22 percent Russians. Moldavians were still in the majority in the rural areas of the five districts of the region. According to the same census, Tiraspol had 182,000 inhabitants and was the political and industrial center of the region. Before the war broke out in 1992, Moldavians made up only about 18 percent of its population. During the Soviet years, the former Romanian town of Tighina was also transformed into an industrial center and was taken over by migrants. Consequently, in 1989 only 29 percent of its 130,000 people were ethnic Moldavians.[3] (Table 1)

The Trans-Dnestr region is important to the disputing parties and to Russia in several ways. First, the government in Kishinev cannot pretend to be in control of an independent republic as long as it is incapable of exercising full control over its territory. Second, since the previous authorities built industry in this region, before the collapse of the Soviet Union Trans-Dnestr produced one-third of Moldova's industrial output and more than half of its consumer goods. Third, Moldova receives most of its raw materials and energy from Tiraspol or through this territory. And if the Russian authorities in Tiraspol decide to interrupt the supply of energy to the rest of Moldova, the entire population would suffer, and Kishinev in particular would be most affected. And last but not least, what would happen to this territory if Moldova were to reunite with Romania?

Local Aspirations and Objectives

The Trans-Dnestr Moldavians are a special case because they feel somehow alienated from the Romanian nation. They have never been part of modern Romania and they have been subjected to a high degree of Russification. As a result, their identity is equally affected by their true ethnic aspirations, as well as by the reality of

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intermingling daily with their Ukrainian and Russian neighbors. And being somehow "outside" Moldova, they are afraid that in case of reunification with Romania, they will be left out again. Thus, most of them want to stay attached to Moldova and oppose any dismemberment of the republic.

The Ukrainian population of the left bank was traditionally rural and only in recent decades began to move to cities. During the Soviet years, the Ukrainians were submitted to an intense process of Russification, but they continued to look at the Ukraine as their country of origin. The declaration of independence of the Dnestr region took them by surprise and caught them in a delicate situation. One thing is certain however; they have no reason to pay allegiance to the Tiraspol Russians. In the past, they lived peacefully with the Moldavians, but if they were to choose, they would rather choose Ukraine.

Another ethnic group which is small but prominent in cities, is the Jewish group. In 1990 there were around 12,000 Jews in the Dnestr region. Although they were generally Russified, they were mostly pro-Moldavian and neutral in the conflict. The events, however, would not leave anybody alone.

The Russian population of the Dnestr area is overwhelmingly of recent origin and they are confronted with many delicate problems. They make a strong and active group in Tiraspol, the capital of the region, and other cities, but they are still a minority in the area. They also hang on to the Marxist ideology as a political way of life and as justification for claiming the multi-ethnic region.

Tiraspol itself was founded 200 years ago as a military settlement of the old Russian Empire and since then has remained largely a Russian key-city in this corner of Russia and the former U.S.S.R. The city is also close to the strategic Ukrainian sea-port of Odessa, itself highly Russified, and to the Danube, and it is an important military stronghold. It has even been suggested that the Russian armies from the Tiraspol area, backed by Moscow, could keep the entire Balkan Peninsula under control. And initially this was probably the geo-strategic idea behind the new Dnestr Republic; a Russian lever aimed at keeping Moldova under Moscow, Ukraine under control, and the Balkans under scrutiny.

The Dnestr Republic became in a way a Soviet Union in miniature, a dream land for frustrated Russian communists, and a

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new hope for embittered Soviet generals. Actually, many of its chief players, from the self-proclaimed president, Igor Smirnov, to the former commander of the 14th Army, General Alexandr Lebed, spoke frequently of reviving the old Soviet Union.

The leader of the new Dnestr Republic appears to be Igor Smirnov. a Russian born in Siberia, who arrived in Tiraspol only in 1987. It is alleged that actually he was assigned to Tiraspol to create a Russian republic. Smirnov was first promoted to various managerial industrial jobs, and then elected to political positions of leadership.[4] To give the appearance of inter-ethnic harmony and social justice, the new leadership recruited several non-Russians and even a few Romanians at the top echelon of the republic. Among them was Stefan Kitsak, a Romanian from Northern Bukovina described as a hardline communist and a professional soldier; Grigore Maracuta, the President of the Supreme Soviet of the self-proclaimed republic; Alexandru Caraman, vice-president of the republic; and a few others.[5] But their presence at the top of the new authorities did not prevent the persecution of the Romanian inhabitants of the area. It only proved that the new state entity was not set up because of fear of ethnic discrimination, but for other reasons. In fact, Lebed, himself an instrumental player in this intricate conflict and scheme, stressed on many occasions the geo-political nature of the conflict.

Kishinev, Tiraspol, Bucharest, Moscow: A Delicate Interplay

Romania began to treat with special vigor the question of Bessarabia and Bukovina immediately after the December 1989 revolution. The media simply demanded the return of the lost provinces, but the government took a more cautious stand. The new Romanian Prime Minister Petre Roman, for example, gave an interview in November 1990 to the German magazine Die Welt, stating that Romania's task was to fight for the independence of Moldova, and he added that reunification was entirely possible. Moscow promptly labeled the interview as "an unacceptable interference in the domestic affairs of the U.S.S.R."[6]

Caught in between Bucharest, Moscow, and the rebellious Dnestr Republic, Kishinev resorted to a cautious policy and opted for two Romanian states, but things did not evolve smoothly. Besides, Moscow did everything to split the Romanian majority of the

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republic. Gradually, the Moldavian stand cracked, and reformist Prime Minister Mircea Druc was replaced with the more pragmatic Valeri Muravski. It was actually a split between the president, who tilted toward appeasing Moscow, and the Moldavian Popular Front, which was openly pro-Romanian. The ensuing struggle paralyzed the Moldavian Parliament and greatly reduced the power of the Popular Front. The new government, nevertheless, pledged to pursue the same policy of reform and gradual integration with Romania.[7]

On 26-28 June 1991, the Moldavian Parliament sponsored the most daring event to date, the International Ribbentrop-Molotov Conference, which denounced the 1939 Soviet-German Pact that provided for the Soviet annexation of Bessarabia and Bukovina. Well organized and well attended, the conference was a great success. Speaker after speaker denounced the Pact and demanded a remedy. The chairman of the Moldavian Parliament, Alexandru Mosanu, declared afterward that the conference was the most important event of his life until that date. The conference was immediately denounced by certain Russian circles, but the course of independence was set for Moldova and reunification with Romania became a real possibility. (8)

The Romanian foreign minister stated again while on a trip to Japan that he expected reunification to be achieved in three stages: formation of a cultural confederation, followed by an economic integration, and, eventually, a German-model merger. The failed Soviet coup of August 1991 led to the dissolution of the U.S.S.R., precipitated the situation, and allowed Moldova to declare its official independence on August 27, 1991. The declaration was adopted almost unanimously, and President Snegur stated that reunification with Romania was Moldova's long-term goal. (9 Confronted with Russian pressure from within and from Moscow, and faced with a grim economic state, Kishinev's attitude toward an early reunification started to cool and President Snegur began to put off the idea.

Kishinev also adopted a very conciliatory tone toward Moldova's ethnic minorities and embarked on a sustained effort to secure international recognition. The Moldavian government provided support for a Russian Cultural Center and for a Foundation for Slavic Culture. It also offered to help the Ukrainian minority who was bitterly complaining against the previous Russification efforts. The government also set up the first Gagauz University and pledged to

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print books and offer courses in the Gagauz language. And for the first time, in 1991 Kishinev published a lengthy history of Moldova's Jews covering 600 years of Jewish presence in the republic. In its efforts for a smooth transition to full independence or for possible reunion with Romania, Moldova went out of its way to comply with the provisions of the Helsinki Accords. (10 At the same time, the pro-Romanian Moldavian leaders advocated a pro-Western attitude, but President Snegur began to reorient Moldova to the East.

The new attitude of President Snegur did not help much. In mid-December 1991, Moldova's mission in Moscow was attacked by a mob of some 300 people who accused Moldova of persecuting the Russians. (11 It was the beginning of an open confrontation with the Dnestr region. It was also the beginning of a split between some Moldavian leaders who advocated a quick reunification with Romania, more moderate leaders who advocated caution, and those who out of fear or personal interest preferred independence. In the meantime, the atmosphere in the Dnestr region grew more tense, and the local Russian leaders began to recruit armed volunteers and to prepare for war.

Still popular with the Moldavians, Snegur called for direct presidential elections and won with an overwhelming majority. To bolster his chances, two days before the elections Snegur rallied the Moldavian leaders and denounced the 14th Army of the Odessa Military District. He accused this army of overt aggression against Moldova, of distributing armaments to extremist elements including criminals, and of keeping the population under siege. The Russian leaders of the Dnestr region boycotted the elections and held their own referendum for separate independence several days before the presidential elections. Many Romanians of the region who refused to participate in the referendum were hunted down and beaten up by armed Russian gangs. (12)

If Moscow was not directly involved in the conflict, it was still confronted with a difficult geo-political dilemma. Should it ever relinquish the former Romanian lands, the Trans-Dnestr region would either go to Ukraine, or try to become independent on its own as it did. Such an outcome, however, would pose a big challenge to Russian-Ukrainian relations. From Moscow's point of view, the ideal solution would be to preserve the status quo in a future federation

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with Russia, but this was no longer certain. Thus, Moscow and the Russians appeared torn apart between equally unattractive alternatives.

It is worth noting that rational Russian voices suggested in the past that the entire area should be returned to Romania. Now, again one such voice made a similar suggestion in the Russian weekly Golos Natsii. It stated that "Moldova's reunification with its ancestral motherland, Romania, is an inevitable historical process that will be accomplished sooner or later." It also said that this was essential for the stability of the region, but it predicted that "during this period, conservative and separatist forces will try to prevent this from happening in various ways." (13

The leaders of the Dnestr region viewed the situation mostly from Russian and communist points of view. First, they urged Russia to guarantee that it would never allow Moldova to reunite with Romania. Then, in May 1992 Tiraspol organized an "all-Union" Congress of workers aimed at reestablishing the old Soviet Union, including its economy, ideology, army, and territory. And to top everything else, the Russian leaders in Tiraspol admitted openly when they received the leaders of the Crimea Russians that they intended to create "Novorossia," a new Russian state that would stretch from Crimea to the Dnestr. (14)

From Enthusiasm to Gloom

The beginning of 1992 was a bad time for Moldova. Armed detachments of the self-declared Dnestr Republic seized large quantities of heavy military equipment from the Russian units stationed near Tiraspol and openly challenged the Moldavian authorities. In many cases, the weapons, ammunition, and equipment were actually handed to them by elements of the 14th Army. Ion Costas, Moldova's Minister of Internal Affairs, denounced the situation and condemned the provocations of the "hardline communists" in Tiraspol and the "reactionary circles in Moscow" who supported them. (15 The provocations, nevertheless, continued, and the region strengthened its military power with a national guard and with special Cossack units. Soon thereafter armed violence became common.

One of the first victims of the conflict was a Moldavian collective farm chairman of the left bank, killed by members of the

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new Dnestr guard. In February 1992, guard and Cossack units also launched systematic attacks against the region's Moldavian police. The fiercest attacks were directed against the right bank city of Tighina, and gradually, the conflict escalated and the number of casualties increased. With the conflict getting out of hand, thousands of Moldavians demonstrated in front of the Parliament in Kishinev, and accused President Snegur of passivity and of delaying the process of establishing a national army. At the same time, a group of Moldavians from Dubosari on the left bank of Dnestr broke into a Soviet military installation and took a number of weapons to arm themselves. As a response, Smirnov declared a state of emergency in the region under his control. Tension reached Tiraspol, too, where a strike was organized by activist Russian women who called the soldiers of the 14th Army to join in fighting against Moldova. Thereafter, fights would start and stop, and cease-fire agreements would be continuously violated. And in spite of claims of neutrality, the 14th Russian Army was soon identified as the main culprit in the conflict. (16)

During this period, Romania appealed several times for calm, and the leaders of Moldova rushed to Bucharest for urgent consultations. Romania also joined Moldova, Russia, and Ukraine to guarantee the cease-fire and to find a peaceful solution. Meanwhile, Boris Yeltsin signed a decree to transfer the 14th Army inside Russia, but either he never intended to transfer it, or worse, his decree was ignored. To complicate the situation, the Russian vice president of the time, Alexandr Rutskoi, paid a surprise visit to Tiraspol on April 5 and declared that "the Dnestr Republic exists and must exist." Back in Moscow the next day, he called for Russia to grant immediate diplomatic recognition to the new republic.(17)

Snegur accused the 14th Army of direct involvement in the war and provided evidence to prove his charges of mercenary participation. A Russian mercenary declared on Moldova's television that the Russian security service was recruiting people from among convicts to fight in Moldova. The participation of the 14th Russian Army became more visible, too, and many prominent Russians began to express strong support for the Dnestr Republic. For example, General Albert Makashsov, a known communist and ultranationalist Russian, arrived in Tiraspol in May 1992, and was appointed adviser

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to the president of the republic. Then, the vice president of Russia declared that Russians in the Dnestr region were faced with genocide and appealed for help. Consequently, more volunteers and Cossacks arrived in the disputed region and the Dnestr began to acquire international notoriety.(18

Ever since perestroika was launched, and especially during these difficult years, the Western countries took a cautious and conciliatory attitude toward Moscow. Following the dismemberment of the Soviet Union and the declarations of independence of various republics, the United States also took a cautious but realistic position. The American Government made it clear that it expected a transition to democracy and free markets in the new republics, as well as full respect for human rights and protection for minorities. With regard to Moldova, Washington adopted a friendly attitude, while implying that the possible union with Romania was an internal matter of the Romanian people. Early in February 1992, Secretary of State James Baker paid a visit to Kishinev, praised Moldova for its respect for minorities, promised international support, and invited President Snegur to Washington. With regard to the growing military conflict in the Dnestr region, the State Department praised the "admirable restraint" of the Government of Moldova in trying to solve the problem and insisted on a peaceful solution. The U.S. Senate also approved a resolution of support for Moldova. And in spite of the fighting, the annual report on human rights for 1992 issued by the State Department was also favorable to the Government of Moldova. (19 Yet, nothing could prevent the eruption of war.

A War of Words and War of Guns

The summer of 1992 witnessed an upsurge of violent conflicts throughout the southern tier of the former U.S.S.R. And while the conflict in Moldova slowly became a full fledged war, Moscow, Kishinev, and Bucharest engaged in intense diplomatic activities. Russian Foreign Minister Andrei Kozyrev proposed a quadripartite meeting with the participation of Moldova, Russia, Ukraine, and for the first time, Romania. At the same time, Russian President Boris Yeltsin claimed to support the integrity of Moldova and said that he wanted a negotiated solution to the conflict. But the Dnestr leaders rejected most peace proposals and continued to instigate instead the Gagauz militants against Moldova.

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In the meantime, Moldova's President sent Yeltsin several messages, which remained unanswered. With the worsening situation on the front line, and with the 14th Army intervening anytime the balance would favor Moldova, Snegur appealed to the United Nations for help to defend his republic against "Russian aggression." On the other hand, the Russian extremist elements launched their own appeals. General Makashov, for instance, gave an interview to Sovetskaya Rossiya and called on Moscow to defend ethnic Russians in the Dnestr region. "If we are defeated here, we will be defeated everywhere on the borderlands," he said. (20)

Trying to defuse the conflict, Yeltsin reiterated his decision to withdraw the 14th Army, but this time his statement was received with surprise and anger by Russian extremists and with skepticism by Moldavians. (21 In the midst of the conflict, the Moldavian Parliament sacked Valery Muravsky, the more pragmatic prime minister, replacing him with Andrei Sangheli, a well known communist.(22)

While Moldova's economy was crippled, the Dnestr region, and especially Tiraspol, could no longer function without direct assistance from Moscow. As a result, many local people began to question the policy and aims pursued by the new leadership. Interviewed on Russian television about the future, Smirnov had to answer that his republic might accede to the Russian Federation, but for the moment he called on Russia and Ukraine to guarantee its independence. (23 In the meantime, Tiraspol began to organize its own army and state structures and even introduced a military draft. Also, the former deputy chief of staff of the 14th Army, Colonel Stefan Kitsak, was promoted general and appointed defense minister of the Dnestr Republic.

One of the fiercest battles of the summer of 1992 was the battle for Tighina, and it involved tanks, heavy artillery, and rocket fire. There was street fighting, and armored vehicles charged through the city. According to Western sources, Moldavian forces destroyed 11 Russian tanks, but hundreds of people, most of them Moldavians, were killed. At one point, Tighina was in Moldavian hands, but Snegur's hesitation and direct threats from Moscow made the Moldavians withdraw. Part of the fighting occurred while President Yeltsin was visiting the United States, and Vice President Rutskoi

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threatened direct Russian intervention. The 14th Army was again directly involved on the Russian side, and there was a danger of further escalation. According to the British newspaper, *The Independent,* of June 24, as well as other sources, the order for the 14th Army to engage in battle came from Moscow, and Moldavian units were about to start to open fire on that army. "For every shell fired into a Russian military base, ten shells will be fired back," threatened Vice President Rutskoi. Unexpectedly, after his return to Moscow, Yeltsin also threatened Moldova with reprisals, while Defense Minister General Pavel Grachev declared to the weekly magazine Argumenty i Fakty that "an appropriate reaction from Russia is essential" when the lives of Russians are at risk. (24)

The escalation of the war raised big question marks in Romania, and there were rumors that Moldova might call on armed help from Romania. During this time, the United States expressed growing concern about the war, and President George Bush discussed the matter with the visiting Russian president. At the same time, Secretary of State James Baker took up the issue with Russian Foreign Minister Kozyrev, and the State Department called on Moscow to withdraw its 14th Army from Moldova as promised by Yeltsin. But the war continued. (25

Ethnic Underpinnings of the Conflict

The fighting and the suffering in the Dnestr region created increasing dissatisfaction and animosity among various groups. With the passing of time, the region was transformed into an area of lawlessness, and a good part of the Russian frustration was directed against local Moldavians. Many of the more active Moldavians, particularly those living in Tiraspol and Tighina, were fired from their jobs, expelled from their homes, or forced to flee the region. On occasion, they were even murdered.

Several cases deserve special attention. During the summer of 1992, the Moldavian media revealed cases of brutality beyond human imagination. For instance, the body of a truck driver, Grigore Besleaga, was found skinned. Valeriu Purice, a Moldavian policeman, was found crucified, with nails driven through his limbs. Many other innocent civilians were thrown in common tombs or in the Dnestr. (26

In order to scare the Romanian population of the region, the

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Dnestr authorities arrested five persons, who apparently were not guilty of anything specific, and charged them with conspiracy, terrorism, and the murder of two local Russians. The most prominent among those arrested was Ilie Ilascu, the leader of the Tiraspol branch of the Moldavian Popular Front. All of them were subjected to unbelievable tortures, and Ilascu was subjected four times to mock executions. What the torturers wanted most was to induce them to confess the crimes they allegedly committed and to make them recant their pro-Romanian attitude. The Russians still hate to face the truth which they hid for 50 years; to admit that Moldavians speak Romanian and are Romanians. Ultimately, Ilascu was sentenced to death in a Stalinist-like show trial, but the sentence was later commuted to life in prison. Two of his colleagues were also sentenced to 15 years and two others to 12 years in prison. The case was taken up by the International Human Rights Law Group of Washington, but for a long while Tiraspol denied the representatives of the group any contact with those arrested. (27)

The Dnestr guards and the Cossacks proved particularly vicious against ethnic Moldavians, but they also attacked ethnic Jews. All these incidents prompted Colonel Mikhail Bergman, the military commander of Tiraspol, to bitterly criticize the Dnestr leaders and to make them responsible for the growing corruption and criminality. He mentioned among others that "armed robbery was not just a typical crime; it was a routine crime." And he added that the city lived outside the law. (28 In turn, the Dnestr leadership accused Colonel Bergman of being an Israeli spy. There was indeed fear among the local Jewish population; Samwil Weizman, co-chairman of the Dnestr Jewish community, quoted several Cossacks who urged "finishing the Jews before dealing with the Moldavians." (29)

The conflict was not actually ethnic, but it did have ethnic underpinnings. The fact that most of the policemen in Tighina were ethnic Russians and Ukrainians, and yet they fought for Moldova, demonstrated that it was not an ethnic conflict. Their officers dismissed the idea that Russian speakers were being persecuted, as claimed by Moscow. And the Russian commander of the Moldavian police in Tighina, Colonel Viktor Gusliakov, denounced the Dnestr leadership and said that "the region was run by a military dictatorship." (30)

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Actually, only 25 percent of Moldova's 560,000 Russians reside on the left bank, while 75 percent live inside the republic, with a large concentration in Kishinev. And the Kishinev Russians appealed directly to President Yeltsin, asking him not to defend them against Moldavian President Snegur for whom they had voted, but against Smirnov, who had cut off their supplies of gas and electricity. Pointing out that there were more Russians in Kishinev than in the entire Dnestr region, they assured Yeltsin that their rights as Russians were respected. (31)

The war caused up to one thousand victims, disrupted normal activity, destroyed property, and made about one hundred thousand people refugees. The Helsinki Watch organization estimated that over 51,000 people fled inside Moldova and some 53,000 fled to Ukraine. (32 While Moldavians went to Kishinev, Russians and Ukrainians went to Odessa, thus aggravating an already gloomy economic situation in both republics. The Ukrainian population of the region also suffered during the conflict, but mostly indirectly since they were not considered enemies of the Tiraspol regime. In addition, inheriting formerly Romanian lands, Ukraine did not want to challenge the territorial status quo of this border area.

The True Nature of the Conflict

Ever since it proclaimed its independence, Moldova went to a great extent to appease the Dnestr Russian, but the leaders of Tiraspol rejected any proposals and declared that war was the only course of action with regard to Moldova. Moldova's president also stated that Kishinev was ready to respect their right of self-determination in the event of a possible change of status, but everything was in vain. (33 The commander of the 14th Russian Army, General Lebed, accused Snegur of having organized a fascist state and vowed to extirpate this fascism and to install a "legitimate" president in Moldova. Later, addressing the Supreme Soviet of the Dnestr Republic, Lebed stressed that the 14th Army would never withdraw from Moldova. (34

In July 1992 Presidents Snegur and Yeltsin signed a special convention to settle the conflict, and by August the war began to subside. In a way, it was an acknowledgment of submission by Snegur, and it caused tremendous anguish and frustration among Moldavians who felt cheated and betrayed. Snegur gave in, Kishinev lost control

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of the Dnestr region, and essentially, Moldova returned to the old pre-independence status quo. With regard to the true nature of the war, a Russian journalist who spent 26 years in Moldova concluded that the war was not ethnic, but simply political, with the local Russians trying to block the national aspirations of the Moldavian majority. A fact-finding team sent to the region by the Helsinki Commission drew the same conclusion: "The Dnestr conflict was a political, not an ethnic conflict." (35 Given the geographical importance the Russians attach to this border area, it may be concluded that the conflict has been ethno-geopolitical, involving Russia, Romania, Ukraine, and the new state of Moldova.

The failure of Moldova to assert itself over its entire territory led the speaker of the Parliament, Alexandru Mosanu, to call directly for reunification with Romania. Later, realizing that Moldova was neither independent, nor allowed to reunite with Romania, Mosanu resigned his position. As for President Snegur, he had already abandoned his initial aim of early reunification. While internally Snegur was engaged in a power struggle to retain his position, externally, Russia could not be easily challenged. Indeed, the deputy foreign minister of Russia declared openly that the new independent states of the former Soviet Union belong to the Russian "sphere of responsibility." And Russia sent additional troops to the Moldavian area of conflict, allegedly to secure its peace. Shortly after the arrival of the new "peace-keeping" troops, Kishinev realized that they only came to strengthen Russia's geo-political foothold in the area. (36 The bloody war ended, Moscow reasserted its dominion, but the roots of the conflict were not addressed, and the problem remained. In September 1992 Tiraspol organized a mass rally, and the 14th Army took part in a military parade to celebrate the second anniversary of the republic. Smirnov addressed the crowd and acknowledged that the Dnestr Republic had survived only "thanks to Russia and the 14th Army." (37)

With the war ended, the Dnestr Republic reinforced the Cyrillic alphabet on the "Moldavian" language, and it resorted to the old policy of Marxism and Russification. Under such circumstances the new Russian Dnestr University, formerly the Moldavian Pedagogical Institute of Tiraspol, hosted the founding conference of the republic's Communist-Leninist Youth. A new ideological drive was launched

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and the persecution against dissent intensified. (38)

The social situation worsened, too, in the Dnestr region, and the 14th Army began to distance itself from the corrupt Tiraspol leadership. Apparently, Army commander General Alexandr Lebed wanted to assert his own authority, and he attacked simultaneously on several fronts. He declared that it would take a thousand years to pull the 14th Army out of Moldova, and he suggested a referendum to determine whether Tighina should belong to Moldova or to the left bank Dnestr Republic. He claimed, nevertheless, that Moldova's independence was a temporary matter, and predicted that its leaders would soon face criminal prosecution. At the same time, Lebed condemned the American "imperialist policy" toward Russia and the Dnestr Republic, but he also turned against the Tiraspol leaders and accused them of corruption and complicity with the "mafia."(39)

The results of the war crippled Moldova and weakened Snegur's position. Caught in between the Dnestr rebellion and the indignant Moldavian population, he approached Tiraspol again and had a dialogue with Smirnov. Snegur offered to grant the territory some autonomy and make it a free economic zone, but Tiraspol rejected the offer. Instead, the Supreme Soviet of the Dnestr Republic demanded the right to keep its own government and army, and recognition of a confederation of Moldova, the Dnestr, and the Gagauz republics.(40)

This time, in a new cross-fire between the pull of Romania and the push of diminishing support at home, Snegur claimed publicly that an imminent irredentist coup was under way and that his life was in danger. He even gave details, saying that supporters of unification with Romania were planning a coup and were ready to provoke a civil war to achieve their aims. Romania denied any involvement and labeled the rumor as disinformation. There were, nevertheless, aggressive demonstrations against Snegur, whose policies had proved aimless. (41

New Contradictory Trends and Options

The dismemberment of the Soviet Union caught the Russians by surprise and made Moscow speak with several voices. Apparently, the Russians were sorting out their interests and options, while Moscow was crafting a new geo-political stand. The ensuing confusion was high, and most likely it has not been completely dissipated yet. By

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1993, for example, some Russians were still dreaming of restoring the former Soviet Union. Viktor Alkins, for example, a reputed Russian extremist who visited Tiraspol in February 1993, declared that the Soviet people would restore the unitary state and that the Dnestr Republic was "the sliver of land on which the Union's spirit has survived and from which the Union's restoration will begin." (42

Kremlin's attitude was more restrained, but Russia was definitely preoccupied with the preservation of its geo-political interests. On April 28, 1993, Yeltsin and the Russian Parliament signed a special document on national security doctrine which proclaimed Russia's right to intervene militarily in any of the 15 former Soviet republics, allegedly, to defend the territorial integrity of Russia. (43 Also, referring to Yugoslavia, Russia made it clear that any action in the Black Sea and Danube basin required prior agreement from Moscow because these were areas of "traditional Russian interests." (44 In this regard, the Dnestr Republic was indeed its best proxy, but not good enough to restore the former Union.

The failed coup of September-October 1993 probably convinced Moscow that the Soviet Union was dead, but the message did not get to the periphery of the former empire. Certainly, it did not get to the Dnestr Republic. As previously announced, Tiraspol organized its own regular army, consisting of some 7,000 soldiers recruited from among the Russian volunteers and paramilitary forces, among Cossacks, and among the soldiers and officers of the 14th Army. (45)

The status of the 14th Army remained an enigma and some of the statements of its commander, General Lebed, showed that either no one was in full control anymore in Russia, or that Moscow's pledge for a new world order was simply rhetorical. Lebed, who at the time aspired to become Russia's President, underlined again that "the Dnestr region was the key to the Balkans," and that it was a strategic crossroad between Ukraine, Romania and the Black Sea. "If Russia loses this area, he stressed bluntly, it will lose influence on the entire region." He mentioned the possibility of it going to Ukraine, but he overruled this option because it would raise the issue of Bukovina and other Ukrainian-held formerly Romanian territories. He thought of making it a sort of Russian oblast like Kaliningrad, but he also rejected the idea. (46)

What began as a political struggle to preserve the old system,

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has become in time a geo-political scheme, and has led to a nightmare that appears to defy any solution. Under these conditions, Moldova opted to consolidate its statehood, to join the CIS economic structures, to approach Romania cautiously, and to cooperate with the West. But every move it made had undesirable consequences, proving that there is very little room for an independent Moldavian republic.

The Moldavian elections of February 1994 produced a more pro-communist and pro-Russian Parliament which immediately threatened to outlaw the pro-union parties. The Parliament also adopted a new Constitution which in a ridiculous way defined the language of the republic as "Moldavian." (47 With regard to the new trend, Izvestiya quoted a high Russian Foreign Ministry official who said that the main reason the Moldavian leaders were not willing to join Romania was because they were controlled from outside. "Quite serious forces are involved in the game around Moldova," he said, adding that "there are many more foreign agents per square kilometer in Moldova than in any other area of the former U.S.S.R." (48 However, the hard work of all those agents and their anti-Romanian campaign soon backlashed.

Tens of thousands of students and teachers began to demonstrate in March 1995 against replacing the Romanian language and history courses with the so-called Moldavian courses. Confronted with such a strong opposition, President Snegur proposed that the language be renamed Romanian, but the Parliament rejected it, and slowly the dissension split the leadership of Moldova. (49

The hard liners of Tiraspol also rejected the Moldavian-Russian agreement with regard to the withdrawal of the 14th Army and its equipment. Igor Smirnov issued a special order prohibiting the removal of the assets of that Army from his territory and declared it the property of the Dnestr Republic. In the meantime, Moscow downgraded the 14th Army to the status of an operational group and replaced its outspoken commander. On June 1995, General Valery Yevnevich took command of the unit and he immediately urged the group of local women protesting the departure of General Lebed to refrain from interfering in military affairs. The new commander also criticized the leaders in Tiraspol and stressed that he had no intention of rendering the military equipment to a third party. (50

The continuing defiance of the Dnestr region, the harsh

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economic crisis, and the resurging language question, polarized Moldova again and led to new political alliances. As a direct result, Snegur lost the presidential bid, and in December 1996 Petru Lucinski became the new president of Moldova. (51

Lucinski is a Soviet-type politician who became a social-democrat, but he, too, was caught between the expectations of his population and Moscow, Tiraspol, and Bucharest. He visited Romania in July 1993 when he was the speaker of Moldova's Parliament and presented his stand before the Romanian Parliament. He noted the common language and history of the two states, but advised Romania to view Moldova from a realistic point of view rather than a historical one. He also avoided any references to a possible union and asked his audience to accept Moldova for what it was. Lucinski even declared later at a press conference that unification with Romania would be in his opinion a sure way to war and it could create a second Yugoslavia in the region. (52)

With regard to the Dnestr area, Lucinski did not score any better than his predecessor. His statements emphasizing that he did not favor union with Romania did not soothe Smirnov and the Tiraspol Russians. Still fearing a possible union of Moldova with Romania, in April 1997 Smirnov declared that he would not object if Ukraine would shift its border to the Dnestr and if the Trans-Dnestr region would join Ukraine. (53

Lucinski tried to please everybody and was determined to reassert Kishinev's sovereignty. He announced early in his mandate that Moldova was not interested in joining the North Atlantic Alliance. But he asked the Alliance to provide security guarantees and offered Moldova to serve as a bridge between NATO and Russia. Moscow was not pleased and continued to pressure Moldova to accept Russian military bases on its territory. It also insisted that Moldova grant dual citizenship to its citizens of Russian origin, a request which if granted would allow Moscow to interfere to allegedly defend the interests of the local Russians. (54

Moldova and the Trans-Dnestr Republic reached a new memorandum of understanding in February 1997. This time the Organization for Security and Cooperation in Europe firmly opposed the agreement. OSCE denounced the document and warned Kishinev that it did not correspond to the "basic principles of the sovereignty

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and territorial integrity of Moldova." The same international body cautioned Kishinev that signing the agreement could set an "extremely unfortunate precedent." (55)

Desperate to settle the Trans-Dnestr conflict, in July 1997 Lucinski granted Tiraspol all its demands: the right to its own constitution, parliament, flag, state symbols, and anthem. The official languages of the region were to be "Moldavian," as Tiraspol wanted to call it, as well as Russian and Ukrainian. And the agreement granted the region the right of self-determination in case that Moldova would lose its independence, another allusion at a possible reunification with Romania. This time, the Tiraspol leaders rejected the very idea of describing their republic as an integral part of Moldova. And to complicate the matter, they set up a special commission to delimit the borders of the republic. (56

One may wonder what do the Tiraspol Russians really want? Is union with Romania imminent and people do not know about it? Indeed, in August 1997, Moldova's National Security Minister Tudor Botnaru made an unusual statement for the Flux press agency and publishing group. With regard to the Trans-Dnestr problem he said that a solution is unlikely to be found soon unless Russia changes its attitude. With regard to Romania he said that unification of the two countries would be good for both, but could not be based on the 1918 or 1941 models. (57

There is also apparently a new mood or at least new interests in Moscow. In September 1997 several prominent Russian Duma deputies told the visiting speaker of the Romanian Parliament that Russia would not necessarily oppose the reunification of Moldova with Romania. On a larger geo-political scheme, they urged Romania to avoid membership in NATO because "the Americans would cheat Romania," and they insisted that Romania has no reasons to fear Russia. (58 Is Russia trying to approach Romania in a different manner, or it is just another voice in the Kremlin's dissonant choir? And what could be the new Russian objectives?

Conclusions

The events that affected the former Soviet Union during the last decade lead the scholar to conclude that the armed actions carried out by ethnic Russians in the non-Russian republics were orchestrated by Moscow. When the Soviet Union was strong and still growing,

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Moscow had global objectives. When it collapsed, Moscow had to redefine its goals and to settle for regional objectives. As long as Moscow was seeking to expand toward Europe or to defend itself against the West, Moldova was an advanced outpost or a buffer zone for the Soviet Union. When perestroika made Moscow look inward, Moldova lost its initial importance and Russia began to make certain adjustments. The process was accelerated by the dissolution of the Soviet Union which compelled Moscow to come up with a new geo-political theory.

The new Russian geo-political theory was elaborated by the Foreign and the Defense Ministries, and it defined the world outside the former U.S.S.R. as the "Far Abroad," and the former Soviet republics outside Russia as the "Near Abroad." Allegedly, the Foreign Ministry espoused a more liberal and more democratic approach and insisted on the importance of the Far Abroad. Eventually, in May 1992 the Defense Ministry came up with a new military doctrine, stressing the strategic importance for Russia of the Near Abroad, which was to be considered a sphere of exclusive Russian interest. This approach prevailed. (59 Of special interest for Moscow was to compel the non-Russian republics to allow Russian troops on their territories and to entrust them with guarding their borders. This would have granted Moscow effective control over the former territory of the Soviet Union. (60)

The new Russian geo-political and military doctrine was fully in place by the time of the second Moscow coup of October 1993, and even those leaders who were considered democrats subscribed to it. For example, referring to the Near Abroad, Russia's Foreign Minister Andrei Kozyrev spoke of the danger of "losing geo-political positions that took centuries to conquer." Referring to the Russian military actions in the non-Russian republics, he preferred to use the term "peace-keeping operations" aimed at defending various minorities. And in April 1995, Kozyrev warned that if necessary, Russia was prepared to use military force to protect ethnic Russians in the former Soviet republics. (61

President Boris Yeltsin also went along with this new geo-political concept. Moldova's President Mircea Snegur, who considered himself a friend and a staunch supporter of Yeltsin, went to Moscow after the October 1993 coup. He congratulated Yeltsin in

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writing, reminded him that the Trans-Dnestr separatists had fought against him during this dramatic struggle, and insisted on meeting him, but Yeltsin refused to see him. Apparently, once the Near Abroad was defined and the decision to hold on to it was made, Moscow only needed to devise the ways and means to implement it. (62

Moldova has been a complex geo-political case for Russia in recent years and has confronted Moscow with a difficult dilemma. The way Moscow will solve this problem will be illustrative for Russia's new policy toward Romania, toward Ukraine, and toward southeast Europe. Moldavian Russians, and especially those living in the Trans-Dnestr region, view the possible reunification of Moldova with Romania with fear because they risk losing their positions of power and privilege. Recently, however, Moscow began to see Moldova only as a bargaining card, willing to give it away for the right price as it gave away East Germany. And the price appears to be first of all geo-political.

The geo-political complications caused by this area started in the 1940's, when from a Russian point of view Ukraine was a separate state only on paper. An ever ambitious and expanding Soviet Union gave Northern Bukovina and the northern and southern reaches of Bessarabia to Kiev because at the time it was inconceivable for Moscow that one day Ukraine would become independent. Since Russian control over Ukraine was complete, the partitioning served Moscow's interests toward central Europe and the Balkans. The rest of the former Bessarabia was transformed from the beginning into an artificial state without any raison d'etre and probably for possible future negotiations and compromises with Romania. For the retreating Russia of this decade, the 1940 partition of the former Romanian lands has backlashed because it only made a bigger and stronger Ukraine.

Ukraine is probably the hardest geo-political dilemma for Moscow. As long as Russia controls the Trans-Dnestr region behind Ukraine and has a strong ethnic presence in Donbas and Crimea, Ukraine cannot really afford to challenge Moscow or to act fully as an independent country. Indeed, for the last several years, Tiraspol has been a perfect bridgehead to keep Moldova away from Romania and Ukraine under threat. Ideally, Russia would like to make Ukraine a junior partner in a new sort of union and to convince

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Romania to stay away from any Western military alliance. However, it is hardly imaginable that Kiev will accept a new loss of independence, and it is equally difficult to imagine that Moscow will freely renounce Ukraine for good.

If Moscow manages to convince Ukraine to join a future union with Russia, it will probably be willing to let the Trans-Dnestr area return to Ukraine. If Moscow succeeds also in keeping Romania away from NATO, or better still, if it manages to attract it in a new military arrangement, it will most likely return the remainder of Moldova to Romania. And why do the Tiraspol Russians hold on so stubbornly to Tighina on the right bank of the Dnestr? Because under such a scenario, Moscow could also return Tighina to Romania "in exchange" for Bucharest renouncing the left bank. It will be a perfect solution for Moscow. Ukraine will get even more land for its subordination, Romania will get a consolation prize, and Russia will continue to play big brother while retaining its domain.

What happens if Ukraine does not go along with Moscow's scheme? Russia could then turn to Romania and allude to returning the entire Bessarabia. And what if Romania with its sad historical experience with Russia will not trust Moscow and instead will try to compromise with Ukraine? The first step in this direction has already been made with the recent signing of the Romanian-Ukrainian Treaty. As it is, the treaty is disadvantageous to Romania, but terms may change in the future when Moldova decides to join Romania. Moscow will bitterly reject any direct Romanian-Ukrainian agreement that disregards its interests. But because Russia is no longer sure of itself, or because it is still sorting out options, Moscow continues to speak with various contradictory voices. In the meantime, Trans-Dnestr remains a rebellious republic and Moldova continues to exist without having a raison d'etre. It only exists for Moscow's geo-political reasons.

And what will Moscow do in the near future if by trying to play both the Ukrainian and Romanian cards, it loses both of them? Will Russia continue to play 19th century geo-politics in this new age? Will Moscow be able and willing to direct huge resources and to continue to police the non-Russian republics? It should be remembered in the first place that such policies led to the collapse of the old Russia and contributed to the exhaustion of the former Soviet

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Union. The New Russia is confronted with hard choices. It is up to Moscow now whether the Russia of the new millennium becomes a normal European country or remains a backward hinterland of the world.

Endnotes

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Heredity and Humanity:
Race, Eugenics and Modern Science

Roger Pearson, Ph.D.

Chap. 1. The Concept of Heredity in the Ancient World
Ancient Europe recognized the importance of human heredity
Chap. 2. The Discovery of Evolution:
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Promoting Rural Community Development in Africa: States versus Grassroots Organizations[1]

Serigne M. Ndiaye
Centers for Disease Control and Prevention, Atlanta

Centralization of administrative decision making and political power constrains community development in African states. The relative absence of individual autonomy, as well as restrictions on entrepreneurship and participation at the local level, creates conditions under which an institutional framework supporting voluntary grassroots organizations (GROS) can develop within communities. This paper shows why and how centralization inhibits local development. Data from the literature, particularly on rural development programs, are used to demonstrate the effectiveness of GROS in promoting the development of rural communities in sub-Saharan Africa.

Key Words: Africa, political centralization, corruption, multi-ethnic states, grass roots organizations, community development.

Attempts by African states to increase and extend their strength through centralized political power and administrative structures were justified in terms of nation-building and economic modernization in the context of ethnic and communal divisions that characterize their societies (Apter 1965; Gars 1963; Huntington 1965). These approaches were especially dominant in the early years of independence, when the state was viewed as the fundamental actor in the development of newly formed African nations. Supporters of centralization have further pointed out that the state must centralize power to fulfill its redistributive function, which is essential to support areas (mainly rural) with weak tax bases (Leonard and Marshall 1982) and communities that lack resources and skills.

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But many factors have reduced African states' capacity to use central institutions to achieve national unity and promote development as predicted. The most important element in the state's failures and in the inefficiency of its central system is political leadership. Two models of the state address these issues directly. In the *rational choice* model, politicians and bureaucrats use the state to promote their own interests and maximize their own welfare rather than that of the populace (Bates 1981). According to the *personal rule* model, rulers of the state are maintained by patron-client relationships and owe their loyalties particularly to their families and ethnic groups rather than to the general public (Jackson and Rosberg 1984; Sandbrook 1985). The abilities of African states to initiate and implement national development programs are compromised by the premises of these models.

Centralization in Africa has been identified increasingly with economic stagnation. The state's capacity to foster development has been questioned, notably by neoliberal developmentalists from international development organizations such as The World Bank. The neoliberal approach maintains that development requires a democratic capitalist system in which the state has only minimal involvement in administration and management (Leftwich 1994). At the core of the neoliberal ideology is the emphasis on political and economic freedom from the center, and on a marked increase in decision making at the local level. From this perspective, Africa's development problems are viewed as a crisis of governance (The World Bank 1989). According to Lal (1983) "[E]conomic failures are direct consequences of authoritarian rule...arising from excessive concentration of both economic and political power in the hands of the state" (also see Killick 1989, and Paul 1989).

In this paper we consider the political dimension of centralization and its influence on rural development. We argue, along the lines of the neoliberals, that statism constrains development by failing to encourage responsible citizenship through participation, on the one hand, and by restricting economic entrepreneurship, on the other. These deficiencies help to explain the lack of community development. We further argue that voluntary grassroots organizations provide the institutional framework within which sustainable community development is possible.

Social scientists use two major perspectives to define

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communities: an institutional/structural and a psychological/cultural one. From the institutional perspective, communities are viewed as groups formed among members whose solidarity or sense of collectivity is built around interest-based organizations and institutions which they create to fulfill their needs (Stein, 1960; Nisbet, 1953). This approach describes communities as "interactive systems" found in modern societies with few general norms which set boundaries of behavior (Milofsky, 1988). In the psychological/cultural approach, communities are geographically based entities which are formed by people who are connected culturally. They are unique in that relationships within them are systematic, interactive and interdependent and "based on shared history, mutual expectations, predictable roles, values, norms and patterns of status differential" (Brager et at., 1987:36). This approach of community fits most rural areas of Africa where their socio-economic differentiations are not as high as in cities and where people for generations live in the same area and they maintain close relationships among themselves.
We use interchangeably the words *local*, *indigenous*, and *grassroots*; from our perspective, all of these terms convey the same concept of belonging to the community, when associated with the words *development* or *organizations*.

State Centralization and Local Underdevelopment in Africa

The Bases of State Centralization in Africa

Centralization is defined as the concentration of power or authority in a central organization. Colonial policies of total control resulted in the establishment of centralized administrations which, in the early years of independence, many African governments have pursued arguably for the purpose of consolidating their nations, which were fragmented and economically depleted by colonialism. Whereas colonialism contributed to the national disintegration that centralization seeks to reverse, historians attribute the lack of foundations for modern African states to precolonial social structures dominated by autonomous and freely moving populations (Hyden 1986). It is also argued that high land-to-labor ratios allowed freedom of movement and cross-border settlements; these conditions prevented the establishment of stable, organized units that could form the modern states. Given this background, the modern state had little choice but to impose a strong central authority in order to control

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pluralism in general (Callaghy 1986). Thus the attempts by African states to increase their power through centralization are guided by consideration of their social fabric. Despite their strong centralized authority, however, these states have not managed to reduce the divisive tendencies of ethnic and communal divisions. Nor have they achieved a just and equitable redistribution of wealth among regions within their borders.

Current discussions of centralization focus on its political dimension. Observers view it as a political strategy used by governments throughout the developing world to strengthen their authority, so as to implement unpopular and difficult structural adjustment policies that have been "recommended" by international financial institutions (Haggard and Kaufman 1992; Nelson 1990).

Many factors contribute to a deterioration of African states' capacity to use centralized systems in promoting development. The politics of the leadership contribute significantly to the inefficiency of the system. The two major models of the African state mentioned earlier, for example, suggest that centralization mainly serves the purposes of the ruling class – the "bureaucratic gentry," as Zolberg (1966) calls it – consisting of career politicians, senior civil servants, elite army officers and managers of public-sector enterprises.[2]

Under centralization, governments have a monopoly on resources; the result is a "regulated market of opportunities" which leaves few options outside the sphere of government. Opportunities exist primarily in the public sector, and are provided mainly on the basis of patronage. With its monopoly on resources, the state becomes the main provider of subsistence and uses this position to increase its influence. Members of the ruling class take advantage of the circumstances by accumulating wealth and handing out benefits to their clients and protégés in a fashion that Bayart (1993) describes as "politics of the belly." Most governments thrive over time because of their exclusive control of resources and their concentration of

[2] The concept of an all powerful minority 'ruling class' does not apply only to developing countries. Political power in the United States rests mainly on a handful of people. In Western democracies, however, the power of the elite is substantially moderated and somewhat balanced by interest groups. We argue along the pluralist perspective that the lack of well-organized shared interest groups capable of demanding accountability, accounts to a large extent for the power of the ruling elite and of the state in Africa.

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power.

Even though many African states attempted to decentralize administration beginning in the 1970s, few succeeded in making the transformation. Centralization has survived into the 1990s[3]. Structures and procedures may be decentralized, but planning and administration of development remain highly centralized (Rondinelli 1981; van de Walle 1994).

Human and Community Underdevelopment in Centralization

Tofler (1984) argues that the capacity of governments to respond to demands from a wide range of special interests is reduced dramatically under centralization because the system places heavy "decision load" on decision makers. Historical evidence also shows that central control of policy significantly slows the industrialization of nations (Holtz 1966). In Africa, while centralization increases states' political power, it weakens the development of their human resources and undermines community development. Below we examine how these processes operate.

Centralization and the underdevelopment of human resources: Because of its exclusive control of resources, the state prevents the creation of a productive economic class, a class of entrepreneurs capable of taking economic initiatives that stimulate development. As a result of the central government's control over power and resources, people have fewer opportunities outside government to achieve their economic goals. In addition to limiting entrepreneurship and initiative, highly centralized governments limit individual participation in decision making. People miss the opportunity to learn by doing and to develop problem-solving skills when decision making is concentrated at the center. As a result, they have little opportunity to

[3] Two processes of administrative decentralization are identified. The first which we refer to throughout the paper, is equivalent to what political scientists call 'devolution' which describes the process of empowering autonomous units of local government. Hage and Finsterbusch (1987) use the term to refer to the autonomy and power of lower level participants in an organization. Leonard and Marshall (1982) point that in the process of devolution, governments weaken their local authority whereas they strengthen it through increase of the discretion of their field agents in the process of 'deconcentration'. The latter which is a process in which the central government grants authority to field units is more widespread among African states.

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build self-confidence or achieve economic independence. Under these circumstances, Goodell (1984) notes that most people will work just enough to get by, or will spend for "immediate gratification in a political environment without participation."

By the same token, the lack of democratic planning isolates people from their interests and goals; as a consequence, they are seldom motivated, and lack the proper commitment and incentives to respond to development programs (Paul 1983). Former President Nyerere himself identified such a situation among Tanzanian farmers who felt that the central government left them out of the planning process. He stated "[I]t is sometimes difficult for local people to respond with enthusiasm to a call for development work which may be to their benefit, but which has been decided upon and planned by an authority hundreds of miles away" (Nyerere 1971; quoted from Maeda 1983). Apathy and violent outbursts, as forms of protest, may result from people's lack of commitment to goals imposed upon them (Bangura 1994). Mbaku (1992) and Kimenyi (1989) conclude that corruption and nepotism spread in many African countries because of pervasive government control.

Centralization and rural underdevelopment: Korten (1983) identifies four major limitations of centralized service delivery: limited reach, inability to sustain local-level action, limited adaptability to local circumstances, and creation of dependence among clients. All four of these limitations have direct implications for rural development in Africa. Here we focus on the political dimension of centralization and its influence on rural underdevelopment.

Sustainable rural development in Africa is constrained by the politics of clientelism used by the ruling elite to maintain its power. Healy and Robinson (1992), for example, note the dominance of political considerations in public investment. The allocation of resources by the central state is scarcely guided by a sense of equity or economic gain. Instead the state apparatus designs and promotes policies primarily on the basis of political considerations; in such cases, rural communities are at a disadvantage because of their minimal political role. "Urban biases" in African governments' development priorities consist of adopting policies that favor urban dwellers and investing in cities rather than in the rural areas.

Glenworth and Sparkhall (1989:90) describe the relationship

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Table 1: Alternative approaches to rural development

	I	II	III
Principal mechanism	Bureaucratic structures	Market interactions	Voluntary associations
Decision-makers	Administrators and experts	Individual producers, consumers, and investors	Leaders and members
Guides for behavior	Regulations	Price signals	Agreements
Criteria for decisions	Policy-technically best means to implement it	Efficiency-best way to maximize profit and/or utility	Interests of members
Sanctions	State authority	Financial loss	Social pressure
Model of operation	Top-down	Individualistic	Bottom-up

Source: Easman and Uphoff (1984:20, Table 1-1).

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between the politics of the central government and resource allocations, and discuss the effects on development in Zambia:

> The search for political legitimacy generated policies which were unfavorable to growth, to reduced inequality or to timely economic adjustment. *Inter alia*, it favored a strategy of administrative and hence political intervention in the allocation of resources, an emphasis on the distribution of state resource rather than on wealth creation, and the creation of offices, institutions and appointments favoring the interests of certain privileged support groups, and not efficient management.

In many cases such as this, state leaders deliberately channel resources to their home areas. In Rwanda, for example, most international development aid programs implemented between 1988 and 1991 were directed to the president's home area in the northern region of the country, at the expense of other regions with greater potential for economic growth.

State and Community Organizations in Rural Development

State Programs and Rural Underdevelopment in Africa

The approach to rural development described in the first column of *Table 1* fits the "Top down" model generally adopted by states. We call this model the "state approach." Decisions are made in hierarchic fashion by state appointees, with no or little input from the intended beneficiaries. The state approach suffers many technical constraints, which we will discuss later. We specifically address its political implications for rural development. An important consequence of the state approach is that government experts and administrators are not accountable to the public. Paul (1994) observes that in this system, which is based on a vertical chain of command or "hierarchical control," service providers tend to be accountable to their supervisors rather than to the public. Consequently the input by the public is negligible or of little value in the decision-making process. Instead, decisions are made with the interests of the state apparatus in mind.

As a consequence of the leaders' goals, rural development under the state approach generally consists of programs products are generally unfavorable to farmers; their products are estimated to be priced at about 36 percent below their value on the world market. In

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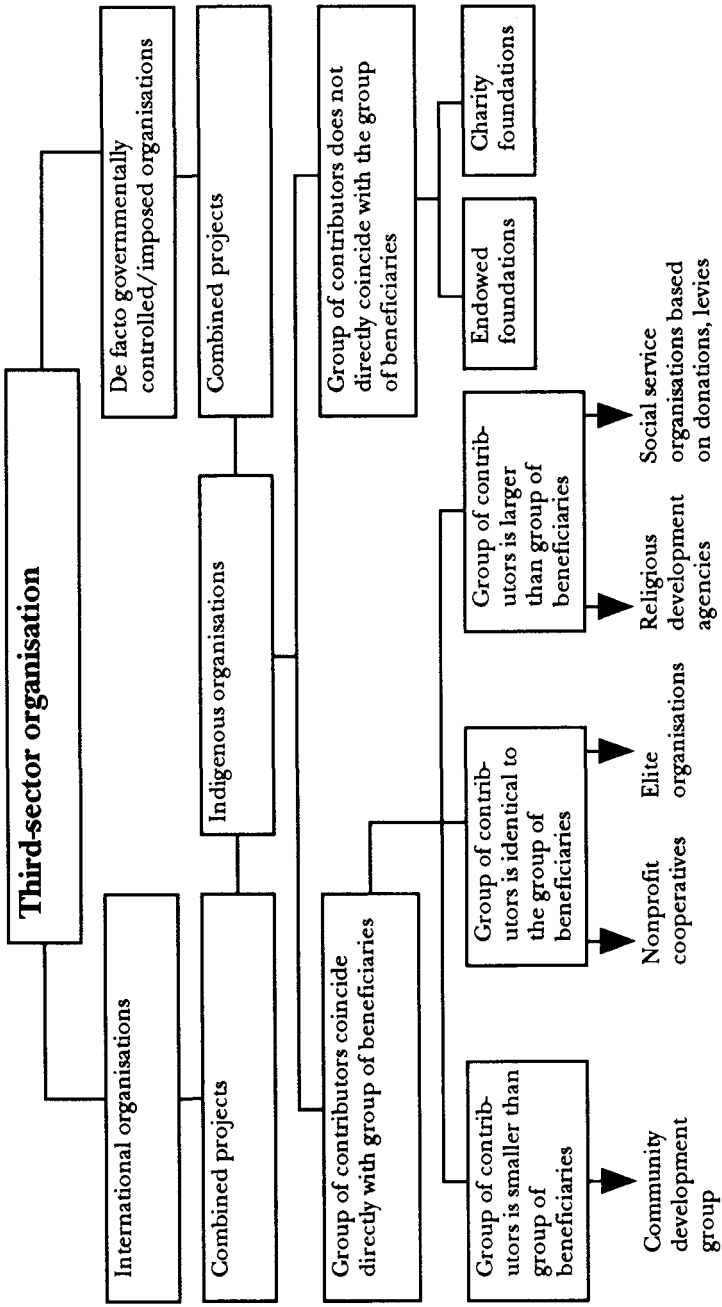

Figure 1: Third Sector Organisation in Africa
Source: Anheier, H.K. (1987) Figure 23.1 p.428

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such cases, state interventions reduce the responsiveness of economic agents (Killick 1995) and deprive rural people of opportunities to gain entrepreneurial experience (Elkan 1988). As a response to the state approach, there is evidence that African farmers (among others) opt for "exit" strategies, whereby they withdraw from state programs and sometimes follow a parallel path. These situations have been identified in Zaire (MacGaffey 1991) and in Senegal (Waterbury and Gersovitz 1987). As a result of unfavorable state programs, evidence shows that farmers opt to secede from the state (Azarya 1988), to smuggle capital and migrate (Chazan 1988), or simply not to grow state-supported crops (Bates 1981).

Community or GRO-based Rural Development in Africa

The alternative "bottom-up" approach to rural development, presented in the third column of *Table 1*, features local voluntary associations as agencies for implementing rural programs. Because they are formed at the local level by involving indigenous people, they are also called grassroots or community organizations (GROS). In *Figure 1*, these organizations are listed at the bottom of the left-hand column, except for the types of GROS in which the contributors outnumber the beneficiaries. Whereas all types of organizations with contributors as listed in *Figure 1* are nongovernmental and have goals for solving local problems, the GROS to which we refer are those whose contributors are not more numerous than the beneficiaries. They are more locally oriented, use more local resources, and depend more strongly on local initiatives. They are formed on the basis of voluntary membership and members' active participation in collective action to achieve shared goals.

GROS generally are small, locally based, and multipurpose. Their role as agents of development and their numbers throughout the developing world grew rapidly in the early 1980s. It is argued that GROS and Nongovernmental Organizations (NGOs) in general were born out of the political and economic failures of states, on the one hand (Arellano-Lopez and Petras 1994; van de Walle 1994), and their limited institutional capacity to meet people's needs, on the other (Cohen et al. 1981; Uphoff 1988).

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The bottom-up approach is known by various names[4]. More important, it functions mainly on the basis of the members' active input into the design and operation of rural/agricultural programs. To be effective, participation by members must occur at all stages, from Program design, implementation, and evaluation to the sharing of benefits (Cohen and Uphoff 1977; Hage and Finsterbusch 1987). Participation is a major strength of the bottom-up model because it is a key factor in rural development (See *Table 2*). Participative organizations have been shown to be effective in reaching the poor ("poverty reach"), in service delivery, and in building group capacity, defined by Hirschman (1984) as "the ability to act together, not once but consistently, to get ahead collectively." Esman and Uphoff (1984) found that developmental outcomes such as increased income and greater access to services for the poor are correlated significantly with the participatory orientation of GROS. Onjonwo (1969) showed that social participation is correlated positively with innovativeness among Nigerian farmers.

Community participation and grassroots organizations in Africa

Community participation is viewed as an active process whereby beneficiaries influence the direction and execution of development projects rather than merely receiving a share of the benefits (Paul 1988). Participation is effective and most efficient via voluntary grassroots organizations, which are shared interest groups that depend on local initiatives. Modern African GROS are distinct from community groups based on ethnicity or age, which are common in traditional African civil society. Modern GROS, also called private voluntary organizations (PVOs) or primary grassroots organizations (PGOs), are independent of kinship or territory (Hamer 1981). Essentially they are self-help groups that provide services to members,

[4] The "bottom up" approach is known by many catchwords such as "development from below", "greenhouse approach" and "people-centered development". Anheier (1987) uses the term "greenhouse approach" which he defines as "the encouragement of private and voluntary efforts, a reliance on local initiatives rather than planned interventions and the creation of incentives to use local know-how rather than western technology and its models of rational organization." (p. 417).

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Table 2: Correlations among performance indicators

	Service delivery	Poverty reach	Participation	Capacity building	Innovation	Policy impact
Service delivery		medium	very high**	medium	high*	low
Poverty reach			very high**	medium	medium	low
Participation				high	medium	low
Capacity building					low	very high**
Innovation						
Policy impact						

* significant at .05 level; ** significant at .01 level
Product-moment correlations (n) were used

Source: Carroll, (1992: 131; Table 8.1)

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the principal beneficiaries (Anheier 1987; James 1980). Carroll (1992) describes GROS as the smallest aggregation of individuals or households that regularly engage in joint development activity as an expression of collective interest.

Skeptics argue against expecting too much from community participation in Africa, and are cautious about the feasibility of a community participation or bottom up approach in implementing development projects on the continent. Van de Walle (1994) argues that clientelism and rent seeking will not disappear with participation, but (perhaps at best) will not increase. According to Gurr (1994), participation may contribute to ethnic and communal conflict if ethnopolitical contenders use the opportunities provided by the democratic process to justify protest and rebellion. Further arguments suggest that it may not even be possible to implement a participatory strategy because both traditional elites and local leaders may resist including the public in decision making (Rondinelli 1981).

Rural cooperatives in Africa are a conspicuous example of failures of participative grassroots organizations. In the past, few of these organizations were successful; many failed because they were promoted by agencies from outside (Kerr 1978) and were too highly bureaucratized and politicized. Many cooperatives were not formed on the basis of felt needs or did not have the potential for business, or members had no stake in the organizations. These problems persist even today. Perhaps the major weaknesses of African rural cooperatives are their low degree of participation, in addition to insufficient capital contributions by members and inadequate performance by management (The World Bank 1987). The problems experienced by African GROS are typical of those encountered in some of the failed "Harambee" self-help movements in Kenya. Their major weaknesses include conflicts between individual and communal goals, local dependency on outside resources, government intervention, undemocratic selection of leaders, and discontinuity (Mbithi and Rasmusson 1977).

Yet African societies contain traditional forms of associations, in which cooperation and participation by members have contributed to upward mobility and financial achievements (Forde 1951; Gosselin 1976; Ijere 1975). As demonstrated by the Harambee movement, the success of African GROS is associated particularly with (1) continuity and democratic selection of leaders and (2) a diversified network of

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Figure 2:
Constraints on Rural Community Development in Africa and Potential Solutions via GROs

	ACTUAL CONSTRAINTS	POTENTIAL SOLUTIONS via GROs:
Psychosocial and Behavioral factors	• "Welfare dependency" mind • Lack of: ✓ *cooperation* ✓ *collective responsibility* ✓ *self-confidence* ✓ *motivation* ✓ *organization*	• Independence/capacity building • Cooperation • Collective responsibility • self-confidence • "Social energy" •Organization / mobilization
Bio-physical factors	• Biological and physical variability of milieu • Weak transport and Communication systems	• Adaptation to local circumstances • Self-reliance / Community orientations
Technical and Economic factors	• Few resources • Weak incentives • Mismanagement / Inefficiency • Low skills and technology • Lack of business or entrepreneurial opportunities	• Resource mobilization • Voluntarism • Responsible management • Local knowledge / adaptive technology • Learning/Opportunity for upward mobility
Politico-administrative factors	• Bureaucracy • Client politics • Centralization • Exclusion	• Local autonomy • Interest-based groups • Local empowerment • Partnership/Control

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contributors, with emphasis on the use of local resources (Mbithi and Rasmusson 1977). Below we examine the conditions of African society that warrant the adoption of participative local organizations to promote rural community development. We identify key problems facing rural communities, and discuss the extent to which GROS using the bottom up approach can contribute substantially to the solutions.

Grassroots organizations and rural development in Africa: Figure 2 displays the particular constraints on rural development in Africa which grassroots organizations help alleviate.

Psychosocial and behavioral dimensions: Despite attempts by colonial powers and post colonial states to undermine and weaken local traditional power structures and indigenous organizations, the latter continue to affect the lives of many Africans, particularly in the rural areas. For example, the authority of elders remains effective among many groups for whom major decision-making rests in the hands of older people in the community. Traditional social networks regrouping people of the same ethnic group, age group, sex group or regions are ubiquitous in many areas in Africa where they structure the economic, social, political and religious lives of many people. In many instances, formal organizations including women's cooperatives, associations of rural-urban migrants and village associations, build upon these traditional organizational structures to strengthen cohesion, build coalitions among themselves and become effective engines of development. There is a growing number of these modern-day broad-based GROS, partly due to the hardships of the drought and hunger years, particularly in the Sahel region where rural dwellers feel the need to work collectively to find solutions to their common problems. Due to relatively disadvantageous socio-economic conditions, these local organizations in the developing world may experience limitations similar to social networks found within poorer and working class communities in the developed world where group activities are constrained to the parochial community, may be relatively non-overlapping and result in small and non-cooperating friendship and kin cliques (Hunter and Staggenborg 1988).

Yet, it is argued that rural people's demands would be more effective if they were articulated through organizational channels. As

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stated in a 1993 report by the International Fund for Agricultural Development (IFAD), "Organized demands upon governments, and, through them, upon external agencies and private/commercial bodies, can focus resources where they are actually needed and reduce the unequal exchange characteristics of the economic relations of the poor in developing countries."(p. 30) Wherever groups or communities have successfully organized, as in the cases of the west African market women or village groups throughout Africa (Pradervand 1990), they have made considerable impacts on the development of their localities. GROS particularly help to mobilize people on the basis of shared interests, and strengthen communal solidarity. They build capacity by providing an environment in which people can acquire new self-respect, a deeper and more assertive group identity, public skills, and values of cooperation (Evans and Boyte 1986). There is evidence that members of participative community organizations display collective responsibility, enthusiasm, and cooperativeness in the name of the common good.

These psychological factors, which form what Hirschman (1984) calls "social energy," are as strongly motivating as material rewards. In Tanzania, for example, it was found that community members who regrouped or organized voluntary basis participated more fully and demonstrated more collective responsibility than members who were "mobilized" by the government to form communities (Maeda 1983).

As communities achieve more success through collective efforts, they gain self-confidence and build self-reliance. When given responsibilities, rural people become proactive and discover their potential in the process. Their attitudes of dependency and stagnation are replaced by attitudes of self-help and responsibility.

Biological and physical dimensions: Kunkel (1970:279) writes "National policies, especially in heterogeneous societies, may not be able to take into account the host of different conditions in which the policies are to be applied, and local autonomy may make it possible to alter the policy sufficiently for it to be applied more successfully." Because of the variety of geoclimatic conditions in Africa, especially in regard to rainfall and soil types, development strategies must be adapted to local conditions. Such flexibility is the cornerstone of the bottom-up approach, in which decisions are made locally, as opposed to the top-down approach, which takes little account of local situations.

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Paul (1988) remarks that programs in an uncertain environment need more autonomy than programs in a stable environment. In Africa, the high variability of predominantly rainfed agriculture and the social and political instability make community involvement in Program planning especially important. In so far as local populations know more about their conditions than outside experts, their input into local planning is critical to the success of programs. Miscommunications and delays in communications are less likely when local organizations are in charge and provide opportunities for communication within the group. Because populations are scattered and thus difficult to reach with conventional delivery systems, community organizations are crucial in building community self-reliance to fill the gap in providing local services. Local organizations operate both production and consumer cooperatives in small rural communities to address local shortages of consumer and agricultural supplies due to bad roads and weather, lack of transportation and storage facilities, and/or over reliance on suppliers in cities.

Technical and economic dimensions: African governments generally do not invest sufficient resources in rural areas. In 1985-1987, for example, rural areas in Africa had access, on average, to only 60 percent as much health service as did urban areas, 30 percent as much water service, and 42 percent as much sanitation service (IFAD 1993). Few incentives are provided to stimulate rural development, as shown by the low prices paid to farmers as mentioned earlier. Lele (1992) observes that African farmers receive about only 36 percent of the international value of their crops.

GROS are involved in various entrepreneurial activities that generate resources to finance local development. Most important, GROS can circumvent constraints on financial resources by encouraging voluntarism among their members. In rural infrastructure projects, for example, self-help and communal labor groups often contribute local materials and labor to meet their cost-sharing responsibilities.

Major obstacles to rural development in Africa include the low level of technology and a lack of effective methods for disseminating technical information to farmers. In Rwanda, the involvement of women's groups in selecting appropriate varieties of beans was very

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successful, especially for women growers.[5] Johnston and Kilby (1975) found that local organizations facilitate the dissemination of technical information and help in managing activities that may require group action. These authors outline several ways in which GROS serve rural development, including:

(1) providing accurate and suitable information about needs, priorities, and capabilities of local publics, and reliable feedback on the impact of government initiatives and services;

(2) adapting programs to local conditions, given the high degree of natural and social variability in rural areas;

(3) mobilizing of local resources on a self-help or matching grant basis, and

(4) providing appropriate local technical knowledge based on long experience and intimate practical knowledge of the environment.

Killick (1995) underscores Africans' resourcefulness, responsiveness, and entrepreneurial character, but attributes the "woes" of their economies in part to restrictive government interventions. Elkan (1988) also notes these institutional effects on reducing Africans' opportunities for acquiring entrepreneurial experience. African GROS offer alternative paths of upward mobility, particularly to members of rural disadvantaged classes (Forde 1951; Gosselin 1976; Ijere 1975), as well as private economic advantages and social and economic control (Anheier 1987).

Client politics among the leaders of central governments distort resource allocations. Resources are diverted to areas where members of the "bureaucratic gentry" have political interests, whether or not such distribution makes economic sense. In many cases, this situation results in serious regional and sectoral disparities in development. Resources are allocated on the basis of political patronage, with little or no accountability. As a result, mismanagement is common. In contrast, GROS are based on interests shared by members who have stake in their organizations and therefore manage resources more responsibly.

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[5] Personal communication, Louise Sperling, anthropologist, CIAT Great Lakes Program

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Politico-administrative dimensions: Bureaucracy creates delays in timely delivery of services and goods. For example, the untimely delivery (or the nondelivery) of agricultural inputs to African farmers is often due to bureaucratic red tape. Such incidents can be avoided when local organizations (such as cooperatives) are in charge of local supplies and distribution of goods and services. The Mhalabangubo project of small vegetable gardens in Zimbabwe, for example, demonstrates that control is as important as the perception of benefits for farmers' participation (Ndiweni 1993). When members of community organizations control the decisions and resources, they have a greater propensity to be innovative and to take initiative.

The "social energy" of community members is activated when they are empowered and participate within the framework of local organizations. Policies of centralization are policies of exclusion in which the minority that controls the power makes decisions, almost always to its own advantage. The great majority of those who are excluded, particularly in rural communities, have little power to demand accountability from their leaders (i.e., responsiveness to public requests and adherence to certain norms of conduct (Paul 1988)). Exclusion, however, may result in positive reactions at the local level, when communities that are left out realize the need to take charge and act on their own. This was the case with the Harambee self-help groups in Kenya, which "arose from disenchantment of a periphery with a planning economic and political center" (Mbithi and Rasmusson 1977:125).

Through local entrepreneurial activities, people achieve relative self-sufficiency, which puts an end to their patron-client relationships with national political leaders. As a result, they become empowered and are more able to make objective political choices.

Summary and Conclusions

Immediately after achieving independence in the 1960s, many African countries adopted centralist policies for the purpose of unifying and strengthening states divided by colonialism and sociocultural differences. At present, however, administrative and political centralization controls power and resources through governments consisting a self-serving politico-military and bureaucratic class with weak popular support. As a result, most citizens are excluded from the development process. Centralized

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governments have created political economies with few economic opportunities beyond a growing and ineffective government sector, on the one hand, and a lack of local autonomy and participation, on the other.

In many cases, the capacity of the African state to implement people-centered development programs is weakened by the lack of nationalist objectives, particularly where members of the political leadership are often tried for corruption and/or accused of being mainly preoccupied by their own interests. Under these circumstances, locally oriented grassroots or community organizations are appropriate agencies for local development. The accomplishments of village self help groups, traditional local women organizations, peasant associations and various other grassroots organizations based on ethnicity, age, sex or profession are evidence of the effectiveness of autonomous groups to contribute to the process of local and national social, economic and political development of Africa (Pradervand 1990; Fisher 1993).

In contrast to the neoliberal economists, we do not perceive the "extent of government involvement" as a major constraint on development in Africa. In our view, central governments have an important role to play, including leadership in formulating national policy and strategy and in coordinating the legal and judicial system. Furthermore, local community organizations need to establish connections at the national level; the central government can provide the national-level infrastructure to which local infrastructures attach themselves. As a partner, the state or the national government can provide needed support services and assistance, particularly in managerial and technical skills. On the other hand, we must bear in mind that not all development projects are more effective when implemented at the grassroots level. Land reform and health projects, for example, often require the intervention of a central power for execution.

From our perspective, the *kind* of government is the issue. In regard to Africa, we question current arguments that a strong state with central authority can encourage development, or is needed to implement structural adjustment policies (Haggard and Kaufman 1992; Nelson 1990). It may be counterproductive to strengthen the state authority without first changing its exclusive and restrictive nature.

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Institutional and policy reforms are needed in Africa to involve citizens in building self-reliance and collective responsibility. Such reforms will create opportunities – particularly in rural communities — for citizens to "liberate their creative energies" (UNDP 1992). Grassroots organizations offer unique opportunities for participation and local development. In the words of 1979 FAO report, "[R]ural development strategies can realize their full potential only through the motivation, active involvement and organization of grassroots level of rural people, with special emphasis on the least advantaged, in conceptualizing and designing policies and programmes, and in creating administrative, social and economic institutions, including cooperatives and other voluntary forms of organizations for implementing and evaluating them" (p. 8). However, empirical evidence shows that official and/or formal NGOs do constitute the only, and most effective agency, through which African communities can effectively articulate their needs and/or accomplish their goals. As illustrated by MacGaffey (1983 and 1991) in the Zairian case, Africans are capable of finding alternative ways to successfully conduct business outside the formal and official sector.

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The Rule of Law and Democracy: Ideals, Realities and "the Human Chokepoint"

Dwight D. Murphey
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It would seem unavoidable that ideals, such as of the Rule of Law and of broad democratic participation, are in actual life always threatened by human factors that lead away from them. During the 1990s, however, two prominent cases in the United States – the criminal and civil trials of O. J. Simpson, and the impeachment of President William Jefferson Clinton – point to what now appears to be a conscious use of human weaknesses to fly in the face of the ideals. This reflects an apparent awareness that in every human procedure there are decisional "chokepoints" where sophistries of all kinds can deflect the outcome from what it would be if normal rational processes were followed. While this impacts on law, the "chokepoint" phenomenon is equally a problem for democracy itself, since its decisional processes are also predicated, ideally, on accurate and adequate information.

Key Words: Rule of Law, democracy, human factors affecting Rule of Law, human factors affecting democracy, O. J. Simpson cases, Clinton impeachment, legal profession, legal ethics, sophistries and the law, Legal Realism.

Ideals are important to a society, not because they are always adhered to, which everyone knows they will not be, but because they guide behavior, public and private, and because they provide the basis for a general belief that the society is well-founded and worthy of allegiance. The latter of these has to do with the "legitimacy" of the social order and of its political and legal systems; *i.e.*, with the society's overall acceptability to the people within it. Unless the institutions enjoy legitimacy, the society devolves into a chaos of individual struggles as people pay attention only to their own interests because they have no faith that principles are adhered to in common. Moreover, people feel little or no basis for loyalty to the society when it comes under attack. When times are good, a loss of near-universal consensus may lead only to pervasive cynicism. American society is for the most part in this condition today. When times are bad, or when strident voices make contending claims to social or ideological

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allegiance, peoples' unwillingness any longer to find grounds upon which to defend the existing society puts its very existence in jeopardy. The United States experienced this collapse of internal cements in the late-1960s during the years of the New Left when the revolutionary rhetoric was strident but, perhaps more importantly, the response to it was morally and intellectually disarmed.

It isn't misplaced, then, for the supporters of democratic participation, the Rule of Law, or any other ideals that people consider important to look periodically at the health of the system they endorse. Are the ideals being at least reasonably approximated in life? Or have they been undermined so severely that they are perceived more as hypocrisies than as guiding principles? Beyond that, the ideals may even be in the process of becoming forgotten altogether.

Such a concern is not to be confused with the "social criticism" in public discourse and "legal relativism" in jurisprudence that in the nineteenth and twentieth centuries have pressed an attack against the mainstream bourgeois society and the ideals that actuate it. In the ideological context of western civilization since the early nineteenth century, the Left, while believing deeply in its own verities, has used relativisms of all sorts as a way to undermine confidence in the verities of the main culture, telling people "your way isn't Truth as you believe it to be; it is only one of many alternatives." Social, cultural, legal and other relativisms have also reflected the empirical orientation of modern thought, and would have played a major role even in the absence of ideological positioning. When in this essay I urge a realistic comprehension of the human factors that vitiate ideals, I am no doubt identifying with the second of these factors, the empirical frame of mind; but I would have us understand the problems inherent in law and political processes so we can better *strengthen* them – a very different thing from ideological attack. Vigilance about the health of ideals may be hard to distinguish from destructive attack, but is essential to their vital realization.

As we proceed, there will be a logical sequence leading to my main point:

- First, to recall the ideals that underlie "democracy" and the "Rule of Law";
- Then to see what qualifications are necessarily placed on those ideals by a need to serve other values that are also thought to

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be important, so that even at its best an ideal is rarely undiluted; and

- Finally, to notice the extent to which "human factors" quite naturally work, even in the normal course of things, to subvert the ideals.

With these as a backdrop, I will refer to two of the more infamous cases from the 1990s to illustrate the point to which I am leading:

- *That the undermining of the ideals has become worsened by what seems to be a growing awareness among opinion molders and lawyers, at least in the United States, that in all human processes there are "chokepoints" that call for human decisions and that these decisions can be deflected from what normal rational processes would lead them to be by playing upon a more-or-less pervasive inability of people to think.*

If sophistries, obfuscations, false dichotomies, mischaracterizations, and biases are brought to bear upon these chokepoints, the procedures of rational deliberation – such as in politics and the courts – are turned from serviceable ideals into putty. Bias, partisanship, sycophancy and sophistry take the place of reason.

Since the uses of sophistry have been known for thousands of years, it would be foolish to think of them as something new. What now seems noteworthy is the extent to which sophistries have come to make up the common coinage of the body politic and of the law in an advanced society like the United States. Ideals long held as basic to the social order run counter to opportunistic manipulations of human weakness, and are subverted by them. These manipulations seem to have reached a crescendo. My observations will be drawn from the O. J. Simpson criminal and civil trials, and the impeachment of President William Jefferson Clinton. This article will point to the sophistries that have recently been manifested, doing so not as commentary on the two cases for their own sakes, but as part of the larger observation about the existence of "chokepoints."

The Ideal of Truth in both Democratic Participation and the Rule of Law

We will see how much the ideal of truth is deviated from, but nothing seems clearer than that "truth" is fundamental to both of the values we are discussing: democratic participation and the Rule of Law. It is possible for a society to subordinate truth-seeking to other

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values, seeing greater good in, for example, religious orthodoxy or tribalistic loyalty. The ideals of democratic participation and the Rule of Law reject those preferences, and are based instead on the society's placing fundamental value on human personality and individuality.

By truth I mean an accurate and adequate knowledge of the facts that are relevant to any given decision, with the facts being understood in due proportion. People in their role as citizens will hopefully make "informed decisions" about candidates and issues. This requires that they have extensive information. The information must be complete in all materials, with nothing important blacked out; and the public will need to assign significance to particular information with a reasoned sense of proportion about its relationship to other information. It is hard to imagine meaningful "democratic participation" without these conditions being at least approximated.

The same holds true for the trial of cases in courts of law. If the reality underlying a dispute cannot be revealed by the evidence, with the various parts viewed in due proportion to each other, the outcome of a trial will differ widely from what "justice" would demand if the true facts were known. The court may make a ruling, and that will usually have the socially beneficial effect at least of putting the dispute to rest between the immediate parties, but the ideal of connecting "justice based on *reality as reconstructed*" to "justice based on *reality as it actually happened*" will not be served. The action of the court will be arbitrary, rooted not in fact but in the imperfections of trying to reconstruct the facts. The court system has legitimacy – *i.e.*, nearly universal acceptance – so long as people have reason to believe that in general judicial processes are rooted in a perception of reality as it actually happened. If it comes to be suspected that they are not, one of the cements of the social order disappears.

There are ambiguities in the ideas of "accurate," "adequate" and "due proportion" in the definition just given. The problem of due proportion will be discussed, though not exhaustively, as we proceed.

Other Values, Leading to Competing Ideals

Even in the discussion of ideals as such, the matter becomes clouded when we realize that truth-seeking, as one highly important value, comes to be mixed with other values, manifested in separate ideals, that the society believes must also be served. Harvard

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professor Alan Dershowitz has pointed out about criminal trials that "truth, although *one* important goal..., is not its *only* goal...." He gives the example that "the requirement is that guilt must be proved 'beyond a reasonable doubt.' But that is inconsistent with the quest for objective truth, because it explicitly prefers one kind of truth to another. The preferred truth is that the defendant did *not* do it, and we demand that jurors err on the side of that truth" [his emphasis].[1]

Likewise, he points out, the United States follows the exclusionary rule, barring the admission of illegally obtained evidence, because the courts want to deter governmental misconduct, preserve privacy, and assure freedom from unreasonable governmental intrusion. The lawyer-client privilege, which bars an attorney from testifying about confidences received from the client, is intended to enhance the right to an attorney, but this comes at the expense of truth-seeking, taken just by itself. Rape shield laws do the same thing, barring evidence about a complaining witness's own sexual history so that the witness is not "victimized a second time," even though the complaining witness's past sexual behavior may be both relevant and material to inferring whether the sex was forced or consensual, and to which version of the facts to believe. The Fifth Amendment "privilege against self-incrimination" invokes a similar trade-off.[2]

The conflict among such competing values means that the principles are subject to continuing adjustment, as the values themselves come to be considered more or less important. Many people think that the search for truth in criminal proceedings has been unduly compromised by emphasis on the other values just mentioned. This appears to be so, and different adjustments of the various "exclusionary rules," to allow the admission of more relevant evidence, would in my opinion be called for. But it is also clear that if there are no effective checks on governmental misconduct, the search for truth is itself perverted. An example is the Stalin purge trials where men like Bukharin confessed to elaborately contrived stories that are known to have been false. Another instance is found

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[1] Alan M. Dershowitz, *Reasonable Doubts: The Criminal Justice System and the O. J. Simpson Case* (New York: Touchstone Books, 1996), p. 37.

[2] Ibid, pp. 37-44.

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in the Israeli trial of John Demjanjuk on the charge, eventually demonstrated to be false after Soviet records became available, that he had been Ivan the Terrible at the Treblinka concentration camp.[3] History shows that truth-seeking can be diminished to insignificance when ideology and governmental interest take over.

The Human Factors that in Varying Degrees Always Threaten the Ideal of Truth-Seeking

The admonition is sometimes made to young lawyers, "never forget that law is a human process." This may be taken merely to mean that one shouldn't be overly bookish or introspective about law, but should realize that success with clients and in court will depend in significant part on satisfying the preferences of a world of extroverts. The ready willingness to have a beer with friends is as important as mastering the law itself; "getting the client" is as important as doing the work. Gregariousness is, after all, important to life.

It doesn't take a young lawyer long, however, to find that the "human factor" in law is this and much more, besides. To say that a process is "human" carries with it not just conviviality, but all the weaknesses and foibles of human beings, as well as their strengths. Here, in considerable detail but by no means exhaustively, are some of the "human factors" that law, as an organized system in society, contains within it, despite its ideals that seek a higher purity. As we review them, we will notice that much the same can be said about the effect of human weaknesses and even depravities on the political ideal of an "informed public":

1. *That decisions made later by those who weren't directly involved in an event must be based on a "mediated" or "reconstructed" reality, and that this is greatly affected by the "lenses" through which people interpret facts.*

Neither justice nor political decisions are meted out on the spot by direct observers to all the relevant events. A trial at law and the on-going formation of public opinion in a democracy are based on

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[3] For a frightening account of governmental abuse in the Demjanjuk case, read Yoram Sheftel, *Defending "Ivan the Terrible": The Conspiracy to Convict John Demjanjuk* (Washington: Regnery Publishing, Inc., 1996). Sheftel was Demjanjuk's lead defense attorney in the later stages of the case.

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the next-best-thing, which is actually quite a poor substitute even though a necessary one: a reconstruction of the events through the eyes of witnesses and commentators. Herein lies much chance for error and for the intrusion of a multitude of factors. One of these is the fact that witnesses, commentators, judges, juries and voters look at things from their own varied perspectives, or "through their own lenses."

Dershowitz was on the defense team in the Simpson criminal case. He recognizes the "lens" concept when he says that "all people – white, black, Hispanic, Asian, Jewish, male, female, gay, heterosexual – view the world through the prism of their experiences...Each juror brings to the deliberations what researchers call interpretive bias." An example: "We had a sense, confirmed by our jury expert, that the prosecutor had seriously misread this jury by assuming that the women jurors would view its forensic and time line evidence through the prism of spousal abuse rather than through the more relevant lens of race and of distrust of the Los Angeles Police Department."[4]

Common observation shows how differences in perception run so deep that they are, perhaps, existential. When a dog owner takes his terrier out on a leash, he finds that the terrier, ensconced in its plane of existence, is fascinated by smells, rabbits and squirrels, while the owner pays attention to an airplane overhead or thinks about the article he's writing. The two living creatures are there together, but in "different worlds." A study of the differences between men and women from a "plane of existence" perspective would be fascinating. Imagine how much these differences in emphases and perception come to bear both in the trial of cases and in politics. In the Clinton impeachment, many people steeled themselves against the details and weren't prepared to credit anything negative because they saw the whole affair as simply "Clinton's enemies ganging up on him," whereas other people found that view of it incongruous because they were looking at the events and the evidence without such a filter.

In fact, it is this "lens" feature that highlights an essential ambiguity, as was previously indicated, in the ideal of truth itself. Facts – accurate and adequate – aren't enough; they must be seen in

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[4] Ibid, pp. 111, 112, 108.

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due proportion to other facts. But ideologies, religions, cultures and social philosophies differ profoundly in their understanding of the context in which facts are to be found. This impacts fundamentally on the concepts of relevance and materiality. Judges' views of what is normal about relevance and materiality stem from their immersement in a given society's consensus about how things relate to each other. Thus, "due proportion," "relevance," and "materiality" are to be understood relativistically. This doesn't mean, however, that any view of them, or any application, is equally good with any other, unless we are willing to posit that all cultures and all social philosophies are themselves equally valid and serviceable to values we hold dear.

2. *That reality is often perceived through a series of snapshots rather than in its full flow and complexity.*

Trials and political discourse both tend to rely on snatches of fact rather than fact as understood in its continuing flow. Those who saw the movie *Kramer v. Kramer* will remember that the character played by Dustin Hoffman was shown to be an attentive and caring father. When, however, a court hearing was held on custody of the son, an injury to the boy at a playground was taken totally out of that context, so that the father was made out to be just the opposite of what he was. We should notice that this wasn't because of any trick on the part of opposing counsel; it is inherent in testimony that focuses on specific incidents. The totality is easy to lose sight of, being less dramatic and much more difficult to grasp. In hearings on child custody, most domestic relations courts, with loaded dockets, couldn't possibly spend the time needed to listen to evidence about the entire context sufficiently to evaluate it. Often, nobody knows the total context but the two contending parties, and they see it very differently.

In public discourse, the media and the people themselves have their attention directed to similar snatches of fact: the sinking of the Maine, the Gulf of Tonkin incident, an atrocity committed by one side that receives media attention even though atrocities on the other side are ignored or successfully hidden. In Kosovo, the American public is currently given a caricature to believe: that the Serbs are the evil-doers who commit atrocities, while the Albanian independence movement stands on the side of an innocent civilian population. Almost no one in the United States knows (or seemingly cares to

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know) anything about the history of Kosovo: that it is sacred ground to the Serbs because that is where the Ottoman Turks defeated them in 1389, leading to almost five centuries of subjugation to the Turks; and that the ethnic Albanian claim arises out of nothing more commanding than a much higher birthrate in recent years.[5] Whether an understanding of these things would make any difference to American policy can't be known, but what is clear is that on this point, as on many others, the United States' "participatory democracy" operates on only the most fragmentary of information, and seems very little concerned about doing otherwise.

In the criminal trial of O. J. Simpson, attention became focused on whether detective Mark Fuhrman had used the "n-word" several years before.[6] It should be noticed that this was a very different thing from an inquiry into the totality of Fuhrman's record to see whether he really was biased racially or, more to the point, given to manufacturing evidence. The context and flow were obliterated by a snatch of fact. Although this isn't inevitable in the trial of a case, and Judge Ito could have prevented it in the Simpson trial, there is a strong proclivity from the very nature of trials, as dramatic reenactments, for specifics to prevent an understanding of the larger reality.

3. *That the "adversary system of justice" and the ideals of the legal profession have much to be said for them, but, as often interpreted, build in some unpalatable realities.*

Under the adversary system, each side in a dispute has its own champion, a lawyer who presents its side and is clearly identified with achieving the best he can for it. Neutrality and objectivity are left to others, assigned differing roles as judge or jury. The conventional wisdom is that "out of this clash will come the fullest airing of truth, since if one side leaves a stone unturned, the other will see benefit in revealing it." It is similar to John Stuart Mill's idealization of free speech in the second half of his essay *On Liberty*, in which truth is

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[5] See the background of the conflict in Kosovo in Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order* (New York: Touchstone Books, 1996), p. 260.

[6] The reference to "the n-word" hardly needs explanation for Americans today, but future readers may not know what it means. It relates to the racially derogatory word "nigger" in speaking of blacks. It was once commonly used, but is now counted as among the grosser indecencies.

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forever engaged in vanquishing error and is appreciated all the more because of the conflict.

In law, this role-playing aspect is often thought to carry beyond the courtroom to such things as the negotiation of contracts. A common perception of the "fiduciary duty" a lawyer owes a client is that the lawyer must strive for maximum advantage for the client, since the attorney is neither more nor less than a vigorous representative of the client's interests. Instead of drafting a lease that looks after the legitimate needs of all the parties and makes the transaction optimally workable, the lawyer will load it with "landlords' clauses" if he represents the owner and "tenants' clauses" if he represents the lessee.

The United States Supreme Court has in recent years opened the legal profession to advertising and price competition. This points the practice of law much more toward a "money-getting trade" than toward a service profession in which a semi-aristocratic elite informs all of its actions on behalf of clients with detached principles of balance and public good. Sol Linowitz, a prominent attorney, writes that the shift that has occurred results in "a game where the lawyer for one side or another [wins] advantages for his client by cleverness."[7]

Linowitz favors the earlier ideal of the legal profession as "a cooperative activity...a helping profession," the purpose of which is "to obey, not evade, the law." The lawyer is an "officer of the court," and owes it deference. The attorney needs to make an independent professional judgment about his client's cause, providing wise counsel and not sharing the client's antagonisms. Even a mediocre settlement is better than litigation, since a balanced view shows that a lawsuit usually drains even the winner. The bar is a fellowship whose members enjoy a high level of liberal education and are concerned about their reputation. Linowitz quotes Alexis de Tocqueville's perception of the American bar of his day as an aristocracy.[8]

What Linowitz sees now, however, differs sharply from this ideal. He sees lawyers taking a "marketing" approach to their practice, so that the lawyer-client nexus shifts from "relationship to

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[7] Sol M. Linowitz, with Martin Mayer, *The Betrayed Profession: Lawyering at the End of the Twentieth Century* (New York: Charles Scribner's Sons, 1994), p. 2.

[8] Ibid, pp. 2-4, 9, 10, 14, 15, 50, 55, 134, 144, 153 and 207.

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transaction," with the lawyer obedient to the expectations of the client. The lawyer's work has become "a collection of techniques a technician is paid to apply for the benefit of a client." He adds: "The mechanics have increasingly supplanted the humanists."[9] The same change has occurred in politics. A long time ago, while the ideal of "republican virtue" was ascendant, politicians liked to see themselves as pillars of character and principle. Their ideal was to serve constituents and varying interests, but through a filter of reasoned judgment and consistently with a high sense of honor. There are important residuals of this even today, but the tone of politics has on the whole come to bear the same relationship to principle as Monica Lewinsky's attitudes bear toward traditional sexual morality – which is to say, little at all.

4. *That incompetence, a lack of common sense, emotions, personal peculiarities, mistakes, passions, prejudices, and other such factors are, to a greater or lesser degree, a part of any complex human endeavor, and certainly a part of both law and politics. To some extent, they will vitiate any organized legal and political system.*

Vincent Bugliosi, the prosecutor of Charles Manson, discusses these less admirable human factors in his book *Outrage: The Five Reasons Why O. J. Simpson Got Away With Murder*: "From the tone of my remarks in this book, I'm sure it's very obvious to the reader by now how upset I am with incompetence and the lack of common sense in life...[T]hese characteristics are not benign. They are responsible for much, if not most, of the great problems, misery, and injustice in the world."[10]

It would be tedious to provide illustrations at length, since it is enough for each reader to consult his own experience. As just one instance, consider the low regard for truth that many people have. Self-regarding, they are wrapped up in their own worlds that they don't want disturbed.

Bugliosi tells how "lying is not only common in criminal as well as civil trials, it's routine and expected." He quotes New York lawyer Francis L. Wellman as saying: "Scarcely a trial is conducted in which perjury does not appear in more or less flagrant form." This has been

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[9] Ibid, pp. 34, 38, 10 and 67.

[10] Vincent Bugliosi, *Outrage: The Five Reasons Why O. J. Simpson Got Away With Murder* (New York: W. W. Norton & Company, 1996), p. 323.

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underscored in the Clinton sex scandals: Monica Lewinsky admitted filing a false affidavit in the Paula Jones case denying sex with the President; and Juanita Broaddrick, who said she was raped by Clinton in 1978 while he was the Attorney General of Arkansas, had earlier filed an affidavit swearing no problem ever existed. Broaddrick recanted this when confronted by the Office of Independent Counsel, who gave her immunity. Her explanation for the affidavit as she gave it in a television interview: "I didn't want to get involved." From these instances, we see how little weight people – people who seem very much like the ordinary human beings around us – often give to the sanctity of an oath or to any general sense of civic duty. It would be a mistake to think people act this way only in special cases; instead, as Bugliosi and Wellman have generalized from years of experience, the desire of individuals to be self-regarding, and to lie if that is what serves their self-interest, is ubiquitous. The effects on a legal system's dispensation of justice and on public discourse within a democracy must be immense.

5. *That even though the ideals of law are vastly at odds with the passionate wilfulness expressed by lynchings, the human factors at work in an organized legal system will always, to a lesser or greater degree, place the system somewhere between the Rule of Law ideal and the raw spontaneity of lynchings.*

It's an oversimplification to think that law, as practiced, is one thing and lynching, as Americans remember it mainly from nineteenth century frontier communities in the West and the South, is something quite distinct. The adoption of legal forms simply cannot obliterate the impulses expressed in lynching: the desire for immediate justice; passion and outrage; an impatience with detached procedures and with technical features that substitute other considerations for a quick dispensation of justice in the given case; a willingness to judge summarily; and an assertion of will that defies accountability.

In daily life from a practical point of view, people see some of these impulses as laudable and even necessary. This is evident when audiences in theaters react enthusiastically when the movie's hero does something strikingly efficacious even though it would put him in jail in real life. And practical "corner-cutting" isn't limited to fiction; it easily becomes the customary way of acting for people who "know the real world" and move spontaneously to act effectively within it. In that context, ideals often seem to many people naive and even

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silly.

Interestingly, this is recognized by both sides in the Simpson case. Professor Dershowitz says police, district attorneys and judges, despite their ostensible commitment to "law," commonly "do what is necessary" [my wording] to accomplish what they see as justice in a larger sense (which is precisely what a frontier community does in a lynching). "Police know they can get away with certain kinds of common lies," he says, and refers to an "epidemic of police perjury." And judges, for their part, "speak the lie of pretending to believe witnesses who they must know are not telling the truth. What does it say about our system of justice that so many judges would pretend to believe policemen they know are lying, rather than follow the unpopular law excluding evidence obtained in violation of the Constitution?" Dershowitz quotes Scott Turow, who says: "The fact that the district attorney's office put these officers on the witness stand to tell this story and that the [judge] accepted it is scandalous. It is also routine...."[11]

Although Bugliosi sees the Simpson case in a diametrically opposite way, he says the same thing about his experience with law enforcement: while arguing that policemen rarely frame blacks, he observes that it does happen in drug cases, where "the framing officers justify it in their minds because they feel the person is guilty anyway." Bugliosi draws on his knowledge of the realities of police work when he says that "what is more common is police perjury to justify probable cause to conduct a search." He observes, in yet another connection, that "the black community knows that in these many cases of police brutality, the offending officer rarely, if ever, tells the truth; he lies, not just out of court, but on the witness stand."[12] If these abuses were reformed, legal processes would be brought closer to the ideal, but at a cost. To the extent there is an eternal war in society between the law-abiding mainstream and the criminal element, there is indeed a Zoroastrian struggle of good versus evil. In that struggle, efficacy *is* important. The "acting man" often thinks that greater punctilio makes the process ineffectual. This highlights the fact that "due process of law" is inherently better suited

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[11] Dershowitz, *Reasonable Doubts*, pp. 50, 47, 48.

[12] Bugliosi, *Outrage*, pp. 256, 255.

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to a highly civilized society where crime is a rare phenomenon than it is for one in which a massive low-grade civil war is going on. If crime is rampant, the organized legal system feels great pressure to take on the characteristics of martial law.

Now, an Increasing Realization that Law Can Be "Nullified" Through Recourse to "Human Chokepoints"

What I have been describing is how the ideals of law are departed from in the *normal* course of a complex human process. Some of the departures can no doubt be reduced under favorable circumstances, so the extent of the departure isn't a given; but it is hard to imagine that an organized legal system will ever be completely free of them.

What we want to observe now, however, is something that is similar to these departures, but that takes them a crucial step further. It is something that has not been normal in American society, but that has recently become a salient feature of both law and politics. What I have in mind is the growing spirit of "shysterism," by which many lawyers have come to a potent realization: that the outcome of normal legal processes can be "nullified" by playing upon "human chokepoints." In every legal procedure, there are junctures at which the case turns on human judgment; and a lawyer-as-shyster comes to know that that decision-making can be manipulated by playing upon the intellectual and emotional weaknesses of the decision-makers. This same manipulation of many peoples' inability to think is apparent in the political arena, where sophistries are rapidly becoming the common coinage of public discourse.

It is here that the Simpson and Clinton cases are most illustrative. The acquittals in the Simpson criminal trial and in the President's impeachment came in the face of the great weight of the evidence: most especially, Simpson's blood alongside his victims' at the murder scene, and Clinton's semen on Monica Lewinsky's dress. In the first, obfuscations led to "jury nullification";[13] in the second,

[13] By "jury nullification" is meant a conscious decision on the part of jurors to decide a case contrary to the instructions they have received from the judge. Such independent action by juries is consistent with anarchy or revolution (which will have merit, or not, depending upon the historical situation), but not with an organized legal system, which seeks to regularize the Rule of Law. Judge Harold J. Rothwax has this in mind when he

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they led to a similar manipulation of public opinion that then, by causing politicians to run for cover, deflected the outcome from what it would have been throughout most of American history.

Again, there are many specifics. Each of these constitutes what logicians would call a "material fallacy" by which attention is directed away from the evidence and reasoned argument:

1. *An overwhelming flood of talk, placing an interpretive "spin" on the facts so that they are understood in a certain selective light.*

Ours is an age of media, and "talking heads" beat every issue to death. Since television in particular believes that verbal combat is important to attract and hold audiences, widely varying views are presented and are argued over and over again. This means that the public is called upon to do something that many people find very difficult to do: to tell a good argument, passionately pleaded, from a bad one, also passionately pleaded.

Daniel Petrocelli, the attorney for the Goldman family in the civil case against Simpson, asks "Who were these pundits? Most seemed to be professional defense lawyers, but whoever they were, they pretty much shared one common characteristic: They knew very little about the case." Speaking of the *Los Angeles Times*' coverage, he said that "in an effort to balance the reporting of the day's events, they and most news outlets would create a distorted impression."[14]

Contentious repetition was heightened in the Clinton case during the year following the revelations about Monica Lewinsky by the fact that the President's defenders adopted a technique that had long-since become standard with Democrats in the House of Representatives: to settle on a common "line" at every juncture and have each voice reiterate it. When, for example, it came time to argue that "the public's tired of the case and wants the President free

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says that "when the government is democratic and not oppressive, nullification mocks the rule of law." He was for twenty-five years a judge on the New York State Supreme Court, and says that "increasingly, we see high-profile cases of obviously guilty defendants who are acquitted by juries (the police in the Rodney King trial), or convicted of much lesser offenses (Reginald Denny). We see juries unable to reach a verdict even with the most overwhelming evidence (the Menendez brothers). Or, as in the case of O. J. Simpson, we see juries that simply fail to deliberate." Harold J. Rothwax, *Guilty: The Collapse of Criminal Justice* (New York: Random House, 1996), pp. 219, 200.

[14] Daniel Petrocelli, with Peter Knobler, *Triumph of Justice: The Final Judgment on the Simpson Saga* (New York: Crown Publishers, Inc., 1998), pp. 408-9.

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to 'go on with the peoples' business,'" the statement became a litany flowing from a thousand lips. Even though the method was transparent, it was effective. In logic, the act of making a point acceptable by constant repetition is called "argumentum ad nauseam." The fact that it has a Latin name attests to its having been around a long time.

The closest parallel we can think of historically is the "line" that the Communist Party had on all issues for many years; if Moscow changed the line, Communists everywhere conformed to it instantly. Prior to the Hitler-Stalin Pact, all Communists preached the "Popular Front" against Germany, but this changed overnight in August 1939 when Nazi Germany and the U.S.S.R. became allies. It switched back as soon as Hitler invaded Russia on June 22, 1941.

2. *Altering the comprehension of events by mischaracterizing and minimizing them.*

If a fact or event is called something a little different from what it is, and people hear that description often enough, most people won't realize that their perception of it has been subtly changed. Mischaracterizations distort perception, minimize or exaggerate reality as the case may be, and induce a loss of proportion.

The Simpson defense consisted of mischaracterizing the events as a police conspiracy to manufacture evidence, but in the main this was done not by verbal mischaracterizations but by *ad hominem* attacks, the introduction of irrelevancies, sowing confusion with the jury about the scientific evidence, and sliding over what was irrefutable. So it is to the Clinton case that we primarily look for examples of verbal mischaraterization. The following merely give some idea of the flood of such descriptions voiced during 1998 and early 1999:

With regard to the sexual behavior itself, it was common to speak in such terms as Clinton's "past mistakes,"[15] "personal life,"[16] "colorful life,"[17] "sordid but trivial sexual liaison,"[18] "tempted by the

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[15] Op-ed piece by Froma Harrop of the *Providence Journal*, appearing in the *Wichita Eagle*, October 11, 1998: "...past mistakes."

[16] Ibid.

[17] Ibid

[18] Op-ed column by Denney Clements, *Wichita Eagle*, December 18, 1998: "...sordid but trivial sexual liaison." "Dissembled."

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forbidden fruit,"[19] "men in their weakness,"[20] "I made a mistake,"[21] "inappropriate relationship,"[22] and "a private matter."[23] Compare these descriptions with the facts, which are universally accepted as established in light of the President's counsels' never having undertaken to rebut Monica Lewinsky's testimony. I recite them not out of a desire to include them here, but to highlight the stark contrast between them and the mischaracterizations: repeated acts of fellatio in and about the Oval Office, one of the more revered places in the United States; the President's masturbation in front of a 22-year-old woman; his masturbating her with a cigar; his ejaculating onto her dress; a number of late-night phone calls to her for "phone sex"; and testimony by Monica Lewinsky (referred to in the footnotes to the Starr Report but censored from the published testimony) of oral-anal sex.[24] The mischaracterizations so minimized the reality of the events themselves that, seen objectively, they amounted to flagrant distortions.

With regard to Kathleen Willey's account that the President put her hand on his penis, Gloria Steinem, founder of *Ms* magazine and a major personality within the feminist movement, said that "at most Mr. Clinton might be guilty of a 'clumsy sexual pass'."[25]

In the Paula Jones suit, the allegation was that the President, after having Jones brought to his hotel room by a State Patrolman, dropped his pants, revealed his erect penis, and asked Jones to perform fellatio on him. When Judge Susan Weber Wright ruled on the motion to dismiss, she was for that purpose required by procedural rules to assume the truth of all of the plaintiff's allegations. Just the same, Judge Wright held that the behavior was

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[19] Remarks by Jesse Jackson in *Newsweek*, August 31, 1998, p. 43.

[20] Ibid.

[21] Clinton statement as per New York Times News Service report, *Wichita Eagle*, September 3, 1998.

[22] The President's own mischaracterization of the behavior, August 1998 in his speech to the nation and Grand Jury testimony.

[23] Call-in comment, *Wichita Eagle*, September 15, 1998.

[24] The oral-anal sex is referred to in Footnote 209 at page 234, Footnote 28 at page 415, and Footnote 35 at page 416 of the Starr Report to the House of Representatives, as published by Pocket Books, New York, 1998. Each of the footnotes refers to the testimony Monica Lewinsky gave to the Grand Jury on August 26, 1998.

[25] Quoted in the *Washington Star National Weekly Edition*, April 5, 1998, p. 11.

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just "boorish and offensive" and did not rise to the level of "outrage" required under Arkansas law.

The same minimizing was applied to the President's lying. One commentator spoke of his "dissembling."[26] Call-in comments to the *Wichita Eagle* said "he got caught in a little white lie" and that "he made a mistake and lied. We all lie at one time or another."[27] These are odd descriptions to refer to intentional misstatements of fact over a period of more than a year before a federal court in the Paula Jones case, to the American people in nationally televised messages, to the cabinet officers, and to the federal Grand Jury convened by the Office of Independent Counsel. Even as this is written, the President still has not told the truth about his conduct.

3. *Colored descriptions.* In his delightful 1985 monograph *The Book of the Fallacy: A Training Manual for Intellectual Subversives*, Madsen Pirie, an Englishman, includes a section on "loaded words," by which he means "the deliberate use of prejudiced terms." "When the words used are calculated to conjure up an attitude more favourable or more hostile than the unadorned facts would elicit, the fallacy used is that of loaded words." An example: that the military leaders of a country may be variously called "defense chiefs" or "war lords."[28] Thus, during the Clinton saga, Independent Counsel Kenneth Starr's legal staff was spoken of as "attack dogs,"[29] and columnist Carl Rowan said "the [Starr] Report oozes...."[30]

4. *The fallacy of assuming that if something is one thing, that precludes its being something worse.*

The fallacy that was perhaps most commonly voiced during the long Clinton episode was that if behavior or a statement can be said to be one thing, that automatically precludes it from being something else. It became a mantra to say, as even House Judiciary Chairman Henry Hyde did, that the case "has not anything to do with sex; it has a lot to do with suborning perjury, tampering with witnesses...."[31]

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[26] Clements in *Wichita Eagle*, December 18, 1998.

[27] *Wichita Eagle*, both on September 15, 1998.

[28] Madsen Pirie, *The Book of the Fallacy: A Training Manual for Intellectual Subversives* (London: Routledge & Kegan Paul, 1985), pp. 110-111.

[29] Clements column, *Wichita Eagle*, December 18, 1998.

[30] Column by Carl Rowan, *Wichita Eagle*, September 16, 1998.

[31] Hyde is quoted in a *Wichita Eagle* editorial, October 11, 1998.

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(This was true about the specific impeachment charges brought by the House, which for political reasons deliberately omitted all reference to the sexual behavior as such; but it was a statement often voiced to characterize the entire episode.) There is, of course, no reason why the scandal did not involve *both*. The presence of the one thing does not preclude the other.

This error came in all sorts of guises. A letter-to-the-editor said "it was *just a* lie to save a woman's honor,"[32] as though such a motive barred the many other aspects. A call-in comment said about Lewinsky that "she did *nothing but* live her life the way she wanted it."[33] Jill Docking, in 1996 a Democratic candidate for the United States Senate from Kansas, issued a statement arguing that "I think people will understand that it is Bill Clinton's personal problem, *not that of* other Democrats."[34] A columnist argued that "pragmatism, *not* depravity, impels [Americans] to cling to their bad-boy president."[35] [My italics.] In all these instances, the statement of one thing is made the pretext for denying something else even though that other thing should be examined on its own merits. It also amounts to an effort to oversimplify, isolating one factor and dismissing the rest.

5. *Other "material fallacies."*

In Pirie's book about fallacies, which I consulted for a more specific detailing of sophistry's techniques, he enumerates a great many errors in reasoning. Many of these were apparent in the public debate over Clinton, and some in the Simpson case.

Pirie tells of "amphiboly," defined as the fallacy of ambiguous construction, whereby a statement is allowed to be understood in more than one way. Although Pirie says this usually results from "careless grammar," it also arises from a less-than-honest lawyer's use of hairsplitting to avoid the commonly accepted meaning of words. President Clinton's own testimony, in which he said "it all depends on what 'is' is," and "I did not have sexual relations," will be unforgettable as the starkest reminder of how impossibly careful anyone must be when questioning a hostile witness or entering into

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[32] *Wichita Eagle*, October 11, 1998.
[33] *Wichita Eagle*, September 25, 1998.
[34] Docking is quoted in the *Wichita Eagle*, September 12, 1998.
[35] Clements column, *Wichita Eagle*, September 25, 1998.

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a contract or a lease drawn by a lawyer intent upon deceiving.[36] Pirie associates several related fallacies closely with this. One is the fallacy of "definitional retreat," which he says "takes place when someone changes the meaning of words in order to deal with an objection raised against the original wording." Writing in 1985, which is worth noting so that it not be thought that he had a partisan view of the Clinton case in mind, he said that "if we are allowed to deal with objections to what we say by claiming that [words] mean something totally unusual, rational discourse breaks down altogether." He pointed out that "a useful device to provide covering fire for a definitional retreat is the presumption that everyone understood your second meaning all along, and only your opponent has been so finicky as to ignore it." Another fallacy, so closely related that it is hard to tell them apart, is "equivocation" – "using words ambiguously." It is also called "extensional pruning," which is when "we use words in their commonly accepted meaning, but retreat when challenged into a strictly literal definition." The conscious use of these things is called "hedging": "the advance preparation of a definitional retreat. The words and phrases are so carefully chosen that the option is retained to do a switch in definitions."[37]

The "argumentum ad hominem" is well known, and as with all these is ancient in its use. It involves attacking the proponent of a position rather than his argument. The Simpson defense centered on an attack on the police, the investigating detectives, the work of the coroner and of the Los Angeles Police Department's scientific laboratory. Such an assault on credibility is part of the adversary system of justice, where it is designed to play a vital role in truth-seeking by putting evidence to the test. But when it rises to the level of a devastating innuendo that is itself unsupported by an adequate evidentiary foundation, as it did in the Simpson case, it is transformed into fallacy. A jury is misled into being a "human chokepoint" rather than assisted. In the Clinton case, it was first Kenneth Starr and his

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[36] That Clinton's deceptions were deliberate is attested to by his Grand Jury testimony: "I met with certain people, and [to] a few of them I said I didn't have sex with Monica Lewinsky, or I didn't have an affair with her or something like that. *I had a very careful thing I said, and I tried not to say anything else....*" (italics added). As quoted in the *Wichita Eagle*, September 12, 1998.

[37] Pirie, *Book of the Fallacy*, pp. 9, 47, 50, 60, 74, 89.

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staff, and then the Republican members of the House Judiciary Committee, including those who presented the case to the Senate as the House Managers, who were cast as "sex-obsessed" and "vindictive." This was to be expected, and is a part of the "heat in the kitchen" that is normal to politics. But with a significant portion of the American people, the case came to be understood exclusively in these terms: the reason for condoning everything Clinton did or said was that it was all being brought out unjustifiably for prudish, political or vindictive purposes. The *ad hominem* defense provided a complete cover.

Pirie points, also, to the "argumentum ad lapidem," which is the technique of ignoring the argument. During my years in the law, I have come to recognize this as one of the tell-tale traits of an effective trial lawyer or negotiator. When perfectly done, it requires a thorough-going insouciance by which a recognition of an unpalatable truth isn't revealed by even so much as a pause or a catch in the throat. This was the essence of the President's lawyers' presentation in the trial of Clinton before the Senate. Imagine being one of those attorneys and having to prepare that defense; to many of us, it would have seemed impossible. The key was to have the ability to go on for hours or even days without the slightest recognition of the specific facts or the gravity of the case. The attorneys who did this so well were greatly assisted, of course, by the knowledge that, even before anything had been said, they had enough votes to block conviction. It was simply a matter of going artfully through the charade. The same can be said of the Simpson criminal defense, once that particular jury was empaneled. "Nullification" through a "human chokepoint" was already in the script. More specifically, we see a good example of "argumentum ad lapidem" cited by Bugliosi: "Cochran [a Simpson defense attorney], having full knowledge that his own client had admitted to the police he had cut himself on his left middle finger on the night of the murders and was bleeding at his Rockingham estate, all *before* he left for Chicago, actually called a string of witnesses...who testified they never saw any cut on Simpson's hand."[38]

6. *Lies per se.*

In the year-long Clinton-Lewinsky episode, lies as such – spoken

[38] Bugliosi, *Outrage*, p. 330.

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by the President, made the basis for affidavits and testimony, and repeated by his supporters – played a crucial role. Although some of them became the basis for Article I of the impeachment, and so can be said to have "gotten him into trouble," their overall effect was to gain time, which from a political standpoint proved invaluable to the use of public opinion as a chokepoint. They also helped prevent the Paula Jones case from coming to trial.

7. *Use of a circle of partisans to repeat the lies.*

Relative to the Simpson case, Goldman attorney Daniel Petrocelli says "there was a circle of people around [Simpson] who would lie to protect him." "We took the depositions of Allen Cowlings, Robert Kardashian, Jason Simpson, Cathy Randa, Skip Taft, and Arnelle Simpson. My own opinion was these people would say anything for their man."[39]

In the Clinton case, an army of surrogates went forth to misinform. *Newsweek* tells how Hillary Clinton "firmly denied the reports of her husband's extramarital affair on the 'Today' show and blamed a 'vast right-wing conspiracy.'"[40] George Stephanopoulous, formerly a senior advisor to President Clinton, wrote that at the early apex of the crisis Clinton "spoke publicly from the Roosevelt room. He assembled his cabinet and staff, and assured them that he was telling the truth. Then he sat back, silently, and watched his official spokespeople, employees of the U. S. government, mislead the country again and again and again."[41]

8. *Manipulations of evidence.*

Various approaches to evidence help obfuscate reality. These include such things as the blocking of important evidence; the prostitution of expert witness testimony; the denial of the cumulative effect of evidence; at the same time, the invalid stretching of inferences; the use of *non sequiturs* to draw conclusions that don't follow from the premises; and the making of any argument that's useful regardless of inconsistency or irrelevancy.

In the Simpson criminal trial, defense counsel succeeded in getting Judge Ito to bar the admission of most of the evidence of

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[39] Petrocelli, *Triumph of Justice*, pp. 105, 259.

[40] *Newsweek*, August 31, 1998, p. 31.

[41] Article, "The Betrayal," by George Stephanopolous, *Newsweek*, August 31, 1998, p. 44.

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long-term marital conflict leading up to the murders. In the Clinton case, some of the most damning facts were censored from public view: the testimony of Juanita Broaddrick that she had been raped by Clinton and had falsified an affidavit for the Paula Jones case, just as Monica Lewinsky had, to avoid testifying; and the Lewinsky testimony about oral-anal sex.

Experts offer invaluable insights in many cases, but the testimony is often "for sale" in the context of the adversary system. This didn't come into the Clinton case, where the DNA evidence was uncontested and the President's lawyers offered no witnesses. In the Simpson case, Petrocelli tells how Dr. Michael Baden was paid more than $100,000 to present his expert opinion that the struggle at the murder scene lasted for from ten to fifteen minutes; "the sole purpose of this argument was to devise a murder scenario lasting long enough to disqualify Simpson as the perpetrator."[42]

One of sophistry's more effective techniques is to insist that each fact in a pattern be seen only by itself and not as part of the pattern. In my book on the history of liberal thought in the United States,[43] I considered it essential to observe that an alienated intellectual subculture had existed since the 1820s, hostilely critiquing the main society. The alienation was evident in the social criticism voiced by Thoreau and Emerson, the letters of Henry Adams after the Civil War, the Bellamy wing of Populism, the Greenwich Village radicalism preceding and during World War I, and continuing later manifestations. Nevertheless, a professor once argued with me that each of those things was something separate, so that no generalization could be made about them. This amounts, in effect, to a denial of the ability to infer and an unwillingness to consider evidence cumulatively. The jury in the Simpson criminal trial in effect denied the great weight of the evidence, much of it incontrovertible, simply refusing to draw an inference of guilt from it. In the Clinton impeachment trial, such a denial was inherent in the Senate's truncation of the House Managers' presentation – and in the inhibitions the House of Representatives itself had felt toward bringing all the charges it could. The cumulative pattern was hardly

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[42] Petrocelli, *Triumph of Justice*, pp. 569, 570.

[43] Dwight D. Murphey, *Liberalism in Contemporary America* (McLean, VA: Council for Social & Economic Studies, 1992).

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touched upon.

At the opposite end of the spectrum is the act of drawing inferences expansively, going far beyond what the evidence justifies. This is perhaps the central sophistry in Alan Dershowitz's book defending Simpson. He argues repeatedly that the casting of doubt upon *some* of the police evidence (such as the bloody glove that "didn't fit") justified the jury's discounting *all* evidence from police sources: "All the police evidence and testimony would now come before the jurors bearing a presumption, or at the very least a suspicion, that it had been corrupted." Dershowitz traces the argument: "The defense never argued that there was a widespread conspiracy...we raised questions about the actions of an even smaller number of bad cops – Vannatter and Fuhrman – who could easily have sprinkled Simpson's blood...That was the conspiracy...[And then the leap:] *the jurors then...could reasonably distrust the rest of the evidence*" [my emphasis].[44] This is an enormous and invalid leap, inserted without Dershowitz's usual perceptive intelligence. To make the leap, the jurors had to believe that a much wider circle of police officers, including some who were at the scene of the crime well before Vannatter or Fuhrman, were in on the conspiracy to frame Simpson. This was both unspeakably improbable and totally unsupported by evidence.

In logic, the drawing of an inference that doesn't follow from the premises is called a *non sequitur*, and is one of the best-known fallacies. In an op-ed column for the New York Times News Service, Karen Hall noted one about the Clinton case when she pointed out that the conclusion that "there's no point in getting upset..., because everyone in Washington is corrupt" isn't the correct conclusion to draw from Clinton's misconduct. The more justifiable inference, she said, is that it is time for *more*, not *less*, concern about official malfeasance.[45]

Finally, we see a willingness to call upon any argument that's useful, regardless of its inconsistency or irrelevance. When this is done, the sophistry and shysterism are plain to see. Petrocelli observed about the Simpson defense: "Whenever evidence was not

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[44] Dershowitz, *Reasonable Doubts*, pp. 87, 137, 138.

[45] Karen Hall's column appeared in the *Wichita Eagle*, September 11, 1998.

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collected or analyzed immediately, the defense claimed it was part of the sinister plot to get Simpson. At the same time, whenever the work was performed promptly, it was part of the 'rush to judgment' against Simpson."[46] In the Senate trial of Clinton, the House Managers were for a long time left in a limbo about whether they would be permitted to call any witnesses at all. Then they were allowed to present just three witnesses through videotape. This truncation by the Senate, largely due to the intractability of its Democratic members, didn't prevent Sen. Byron Dorgan, D-N.D., from making this criticism on television: "We've sat for three days and haven't heard anything new."[47]

9. *Unending effrontery; in-your-face disavowal of facts.*

Petrocelli speaks of O. J. Simpson as "a deeply flawed liar, a man with no conscience." When confronted at his civil deposition with the notes one of his own experts had taken about what he told the expert, Simpson simply denied them. It was a trait that found its most grotesque reflection in Simpson's having trademarked his own name on a set of knives just one month after the murders. "O. J. Knives. The man had no shame."[48]

The same unabashed pressing-ahead was a *sine qua non* of Clinton's remaining in office, and has been a characteristic not just of Clinton himself, but also of his supporters, not a single one of whom resigned from office in protest over the disgrace. To appreciate this fully, just imagine what any person with even the slightest sense of shame would have done under like circumstances: when caught in the most prurient conduct by the revelations of a young woman and when that account was known to be supported by conclusive physical evidence, most people would have been so humiliated they would perhaps never wish to be seen in public again. This is just the opposite of Clinton's reaction.

What the two cases demonstrate is that American society is today producing some individuals, and elevating them to the highest levels, who are untouched by either religious or acculturated scruples. That marks a sea-change in American culture. It is arguably one of the root causes for the growing effectiveness of the "shyster's" use of

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[46] Petrocelli, *Triumph of Justice*, p. 415.

[47] Sen. Dorgan is quoted in the *Wichita Eagle*, January 18, 1999.

[48] Petrocelli, *Triumph of Justice*, pp. 541, 519, 631.

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"human chokepoints." The inbred defenses that the civilization once counted upon implicitly to protect it have, to some significant degree, been washed away.

10. *A cultivated technique of evasion.*

In both the Gennifer Flowers and Monica Lewinsky scandals, Clinton used a technique magnificent in its simplicity: to say "I won't say anything until I make my statement [on such-and-such a day]"; then to make an equivocal, very brief, and totally insufficient statement; and finally to say "I've made my statement; now it's time to move on." He succeeded with this totally in the Gennifer Flowers instance because of the collusion of the media, who never insisted on an adequate explanation or revisited the issue after his "statement." The counterpart to this in the Lewinsky scandal was his ultimate admission that "I did have an inappropriate relationship." His Grand Jury testimony, broadcast to the nation, consisted of reading a written statement with this very meager explanation, and then insisting that he would give no details beyond it. Again, forbearance by others saved him: Kenneth Starr didn't have him cited for contempt of court or force him to claim a recognized privilege, such as his right against self-incrimination under the Fifth Amendment; and the media never pressed him for what precisely he meant by "inappropriate relationship."

Conclusion

A cynical recognition that there are "chokepoints" in all human decision-making is leading in the United States to a heightened level of sophistry. The nullification of what would normally be done through democratic participation and the Rule of Law moves the society even further away from its ideals than would occur through the virtually inevitable existence of human passions and weaknesses. This distance from ideals is significant in a civilizational context, since ideals are essential social cements to justify loyalty to the social and political system. Nothing less than "legitimacy" is at issue.

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BOOK REVIEWS

The Genesis of Chinese Communist Foreign Policy
Michael H. Hunt
Columbia University Press, New York, 1996.

With 1.2 billion people and rapid economic growth, China will soon be the world's leading economic power, and can be expected to play a corresponding role in international relations. Understanding the origins of China's foreign policy then becomes important. Hunt's book starts with the crisis in the Quing Dynasty (starting from about 1800) when it became clear that China was threatened by the economically and militarily stronger Western powers. It ends with the Korean War. In recent years many new Chinese language documents have become available dealing the Mao era, permitting a reevaluation of this era.

Mao and many other communist leaders are interpreted as "patriots" rather than "nationalists". The reason is that they valued the Chinese state and wished to see it powerful. This went beyond traditional "nationalism," with its emphasis of freeing ones home people from foreign domination. Dynastic China was an empire in which the majority of the population was Han (i.e. Chinese), but which had extended its control over the non-Chinese populations in Manchuria, Mongolia, Xinkiang (a large traditionally Muslim area in West China) and Tibet. The Communists and those who overthrew the Qing dynasty sought to maintain Chinese control over these outlying areas. This left the Communist with the problem of explaining why the Chinese people should be free of foreign domination, but yet the non-Chinese areas of Tibet, Xinkiang, Mongolia, etc. should be under Chinese control.

Only recently has the area that in World War II was Manchuria, and is now called Northeast China, came to have a predominately Chinese population. It was originally populated by an ethnic group called the Manchu. These conquered China proper, setting up what Chinese called the Qing Dynasty (sometimes called the Manchu Dynasty). While the Manchu rulers adopted Chinese culture and styles of ruling, for most of their reign they restricted Han migration into their homeland. Only in the last century when Russia and Japan

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were seeking control of the region, did they encourage the Han migration that finally firmly tied the region to China (It is now at least ninety percent Han). Likewise, Inner Mongolia only recently became predominately Han rather than Mongolian, and the large area of Xinkiang only very recently came to have a Han majority. The same process now appears to be taking place in Tibet. For the Chinese "patriots" a problem was how to reconcile Chinese domination (and settlement) of these regions with calls for the Chinese themselves to be free of foreign domination.

The book traces the conflict in the late Qing dynasty between two views. One feared the cultural influences of the foreigner and called for massive resistance to the foreign intrusions. Anther realized that China was militarily weak and needed access to foreign technology and skills, and were hence willing to accept some degree of compromise with foreign powers. This conflict has been found in every non-Western country and certainly continued into the present in China.

One viewpoint was that the masses, if unified, could repeal the foreigners (note the mass mobilization theme that became so popular with Mao) even in its current state of development and the other was that China needed foreign knowledge and a period of accommodation was needed to buy the time to develop. Qing policy fluctuated between these. Each attempt at military resistance resulted in a Chinese defeat, from the Opium War to the Boxer rebellion. After the latter fiasco, in which a foreign army easily occupied Beijing (1905), the resistance forces were discredited. Internal discussion then focused on how China might buy time to modernize, and whether, and how an alliance with one foreign power might assist in opposing other powers. China's experience with foreign alliances was not good, with foreign powers usually unwilling to go as far as war to protect China.

Thus, Russia was allowed to run the Trans-Siberian railroad across Chinese territory in the hope that Russia would aid China against Japan. However, it received no real support. Instead, it found that the northern part of Manchuria was, in effect, under Russian occupation. Likewise, although the US talked about an open door policy of access to China for all powers, and offered verbal opposition to Japanese expansion, in the end it would not offer military support.

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Chinese intellectuals felt very betrayed when, after China had entered World War I against Germany, the final peace treaty (acting on agreements with Japan made by Britain, France, and Italy) transferred the German concessions in Shandong to Japan, in spite of the Woodrow Wilson's self-determination principles. This led to widespread protests on May 4, 1919, creating a feeling that none of the Western powers (the imperialists) were to be trusted.

In spite of bad Chinese experiences with Russia, the communist revolution raised the hope in the minds of the Chinese Communist Party of a new special relationship with the Soviet Union, as leader of the communist world. The Soviet Union played a critical role in organizing the Chinese Communist Party and during the 1920's trained many of its leaders in Moscow. The Soviets tried with a high degree of success to control the positions the Chinese Communist Party took, which naturally were conducive to Soviet interests. During this period the party pronouncements followed the Comintern line laid down from Moscow, and put heavy interests on denouncing the imperialists and capitalists. However, when the communists had come to control a substantial area in the Jingxi (Province) Soviet, they came into contact with the practical problem of dealing with foreigners and their interests. Then, their actual governmental policy was much less anti-Western (obviously influenced by a desire not to unnecessarily antagonize the US or other foreign powers).

The directives from Moscow were frequently not those most conducive to the growth of the Chinese Communist Party, and the representatives sent from Moscow frequently did not give the best advice. One case of importance was the attempt to defend the Jingxi Soviet (the major rural area controlled by the communists) by a traditional fixed defense. The result was the eventual Nationalist conquest of this area. This was followed the famous Long March, in which the remnants successfully traveled 5,000 miles to set up a new base (but with most of the supporters and military power lost along the way).

Once the communists had their new bases in Yanan (another rural, mountainous area) there remained conflict between Moscow's interest and the Chinese interest. Generally, Moscow's directives were followed. The Soviets in this period were concerned with the Japanese threat to Siberia, and allied themselves with the Chinese Nationalists (which controlled most of China). They sought (especially

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after a formal Sino-Soviet non-aggression pact was formed) not to have the Chinese communists do anything that would divert the Chinese Nationalist government from opposing Japan (possibly freeing it up to move against the Soviet Union). After a Japanese-Soviet non-aggression pact, the Soviets tried to prevent the communists from actively attacking the Japanese. The communists followed Moscow's lead. Doing so naturally created some problems. In particular, it prevented themselves from positioning themselves as anti-Japanese as they would have liked to. With the German invasion of Russia, the Soviets desired to have the Chinese communist's oppose Japan (reducing the risk it would attack Russia). However, their major alliance was with the Nationalist Chinese government, which was fighting Japan, and they gave their major support to them, not to the communists, who were their ideological allies.

During the Second World War, the Soviets had little resources to devote to supporting the Chinese Communists. What assistance they did give went to the Nationalist government, with the goal of tying the Japanese down in the War in China. This failure to receive much support was a source of unhappiness for the Chinese Communists.

Interestingly, Mao Zedong during World War II actually tried to achieve an alliance with the United States, but got little direct support. Instead the US assistance to China went through the Nationalists. He anticipated much more assistance and adopted a Southern strategy to get it. He expected that the Pacific War would eventually lead to a US landing on the South China coast. He ordered his soldiers south, and directed them to prepare for joint operations with the Americans. Besides the obvious goal of freeing China from the hated Japanese, such operations could be expected to bring material resources to the communists and to leave them after the war in control of key areas. Mao was expecting the war to last well into 1946 or later, in which case such an operation might have occurred. But Japan surrendered before then, leaving many of the communists units in the south, badly position for the post-war conflict. During the period when Mao was hoping for this US invasion and for a while after the war, Mao sought an alliance with the US, and assistance from it for the areas it controlled.

Contrary to a widespread view in the US, the Chinese Communists were disappointed in their attempts to achieve

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substantial help from the Soviet Union during the war and immediately afterwards. The Soviets made an alliance with the Nationalist government and observed it. They instructed the Communists to keep their forces out of the major cities in the Northeast. The communists moved their forces north in the hope of occupying areas before the Nationalists did, and instructed them to stay out of the cities and to cooperate with the Soviets. This positioned them badly for the coming civil war.

The immediate post war policy of Mao was to try to cooperate with the Nationalists while keeping and strengthening the base areas controlled by the communists. Both the US and the Soviet Union were trying to avoid a Civil War, and tried to induce the two parties to cooperate. According to Hunt, both leaned towards the Nationalists.

The Soviets had occupied Northeast China (known as Manchuria) once they entered the War against Japan. The Japanese and their Chinese allies generally surrendered to the Nationalists. The Soviets, observing their treaty with the Nationalist Chinese government turned their resources over to the Nationalists, rather than the Soviets. The Soviets stayed with the Nationalists during much of the Civil War and when the Nationalists moved their government out of Nanjing to Canton, the Soviet embassy followed it.

Once the Communists had won the war, the Soviets recognized them. Mao, after a long trip to China, was able to achieve an alliance and a moderate amount of technical assistance and aid. However, he continued to try maintain friendly relations and trade with the other powers.

The Korean War changed things. Mao had supported the invasion of South Korea, believing there would be a relatively quick victory. He maintained his support even after it became clear the Soviets would give little assistance. The Chinese initial assistance included returning Korean troops who had fought for the Communists in the Civil War, and providing material.

The Communists did not anticipate American assistance to Korea, and were surprised when the US came to South Korea's aid. Mao made a decision to send Chinese troops to assist North Korea, apparently concerned about having American troops on the Chinese frontier of the Yalu River. This involved China in a costly war of

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attrition with the United States. The historical discussion ends here.

The final section of the book discusses the current status of studies of this period, and how the Chinese historians are becoming free to look at this period without the earlier constraints of making the party and its leadership look good. There is a detailed discussion of sources (mainly of value to the specialist) and the footnoting is extensive, including many sources in Chinese (again of primary value to the specialist). These should make it of value to both the specialist and any reader interested in the origins of modern China.

Edward M. Miller

Edward M. Miller is a professor at the University of New Orleans, currently at Renmin University in Beijing, China on a Fulbright Distinguished Lectureship.

Katyn: The Untold Story of Stalin's Polish Massacre
Allen Paul
Charles Scribner's Sons, 1997

This book is of especial relevance to the academic community's recent studies of genocide. Although the mass graves in the Katyn Forest contained only 4142 bodies, references to Katyn have come to include the execution by the Soviet Union's NKVD of a total of 15,000 Polish officers and "bourgeoisie" in April and May of 1940. (The other bodies are buried in still-unlocated mass graves.) Between October 1939 and June 1941, the Soviet Union additionally deported some 1.5 million Poles to various locations within the Soviet Union. More than a million of these were never heard from again. This was out of a total Polish population of 36 million.

In this scholarly account, Allen Paul ascribes the murders in particular to Stalin's desire "to eliminate Poland's educated class." The army was the single institution most vital to the unity of Poland's highly diverse population. "By eliminating all traces of its leadership, the Soviets expected to decapitate the country, rendering it helpless and compliant." Stalin's efforts along these lines ran parallel to Hitler's, since both countries wished to subjugate Poland completely – and between September 1939 and the fall of Communism in Eastern Europe had successive control over Polish territory.

A follow-up study of the effects upon the Polish people is, accordingly, very much in order. What are the consequences, in a

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number of dimensions, of the "decapitation" of perhaps two generations of a people's leadership? A study of the Polish example would have much to tell us about the effects of World Wars I and II on Europe as a whole, since they involved the death of great numbers of several nations' best men and a resultant degradation of the national gene pools.

This book is valuable for a number of other reasons, as well, which include the following, though they are by no means exhaustive:

- The events of the Katyn massacres themselves. For many years, the Soviet Union placed the blame on Germany. Germany, indeed, was indicted for the crime at Nuremberg. Strong evidence pointed toward Soviet guilt, and all question about it was removed in 1990 when Mikhail Gorbachev, in a ceremony at the Kremlin, released voluminous documents to the president of Poland showing commission of the executions by the NKVD.

- The complicity of successive administrations within the United States and Great Britain in blaming the Nazis and hiding the fact of Soviet guilt. This points to a serious side-effect of the democratic nations' having allied themselves with one totalitarian power against another. (It has long been an established premise within Western opinion that the alliance with Stalin against Hitler was morally necessary, but it was a premise questioned by former United States president Herbert Hoover and a good many Americans before World War II.)

- The perspective it provides about the Nuremberg tribunal. The indictment of the Nazis for the crime, and the subsequent dishonesty of quietly omitting all mention of it in the final judgment despite strong evidence of Soviet guilt, demonstrates the travesty, in terms of the Rule of Law, of having the victors prosecute and judge war crimes cases. The lesson applies even when none of the victors is a totalitarian power, as was the case at Nuremberg; the show trial of John Demjanjuk in Israel for being Ivan the Terrible at Treblinka, a trial that resulted in a death sentence that was set aside only after Soviet archives opened to show that another man had been Ivan, tells us that even a democracy is capable of sham justice.
- The perspective it provides, also, about Communism as a

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totalitarian system as compared with Nazism. Even today, a double standard allows Marxism-Leninisma comparatively favorable image despite its murderous record.

Dwight C. Murphey

The Great Betrayal: How American Sovereignty and Social Justice Are Being Sacrificed to the Gods of the Global Economy
Patrick J. Buchanan
Little, Brown and Company, 1998

As late as 1987, Pat Buchanan was committed to free trade ideology, which since the Roosevelt administration in the 1930s has prevailed within both the American Right and the American Left.

Later experiences on the presidential campaign trail caused him, however, to question his premises. As he met people and came to know their problems, he arrived at a very different understanding: that economic globalism, by flooding the American market with goods produced by workers who receive far less than the prevailing wage in the United States, undercuts the economic, cultural and political foundations of American society.

The Great Betrayal tells how Buchanan believes that the United States is ill-served by the current failure to protect its workers, its culture and its national sovereignty. Americans of all ideological persuasions – and most especially "conservatives" who care both about American national interests and the theory of free markets – will find it valuable to read this book. The only prerequisite is that they be as honest with themselves as Buchanan has been with himself. Such a prerequisite is, of course, a major obstacle; Buchanan exhibits traits that are as rare as they are valuable: fundamental intellectual honesty and a strength of character that allow him to admit when he has been wrong and to change course when facts and events demand it.

These are issues, however, that will dominate politics and social philosophy in the United States and elsewhere during the first half of the coming century. As Buchanan puts it, the conflict between nationalism and globalism "is the new conflict of the age that succeeds the Cold War."

Buchanan observes that the act of throwing the American labor market open to global competition is rapidly fracturing American

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society along class lines. A new transnational elite, he says, is becoming set off against the majority of the people, who are increasingly vulnerable economically and are even under threat of losing their national and cultural identity. Here are some of the features he traces:

> • The impact on middle-America, as even during a long "boom" period of the 1990s middle class anxiety grows, hopes become down-sized, family incomes stagnate, real wages fall, and more and more wives work so that families can tread water economically.
>
> • The plight of the United States as a whole, as the trade deficit continues for what will soon be three uninterrupted decades; the percentage of manufacturing falls, and with it the percentage of well-paid manufacturing jobs; in place of them, ever more poorly paid jobs come into existence; foreign ownership of American assets and debts increases; and the United States becomes increasingly vulnerable to the shocks inherent in global interdependence.
>
> • The on-going erosion of national sovereignty through a variety of factors such as the growth of worldwide corporations that have no national loyalties, the country's increasing dependence on foreign sources of supply, and the effect of trade agreements which subordinate the U.S. to the decisions of transnational boards.

Buchanan includes an extensive review of American economic history, recalling that through most of American history the country was committed to protecting its domestic market, and a point-by-point critique of free trade ideology, debunking many of the arguments that he himself embraced just a decade ago.

He calls for an "enlightened nationalism," which will involve each nation's viewing itself as a moral community with an obligation to see to the welfare of its existing population, maintaining the standard of living of its own people. Regional trading zones should come into being, but only among comparable economies; and tariffs should be used to insulate the firms and workers of the advanced economies from the ravages of competing with dirt-cheap labor in global trade. It is to be a nationalism that harbors no desire to dominate others; in place of a Wilsonian drive to remake the world, there will be a willingness to allow each people to seek its own cultural and

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economic life in its own way.

The Great Betrayal is accordingly both radical and profoundly conservative. The need to consider its ideas will become increasingly apparent with the growing impact of global trade.

What should be noted, however, is that much more will be needed. Even though Buchanan sees farther and deeper than most of his contemporaries, even that won't be enough. It is as though he is an observer on a island who sees one tidal wave coming, but does not yet see is that a second, even larger wave is approaching from the island's other side. It will be necessary to plan for both, and what is done for one, even though vitally important and valuable in itself, won't be sufficient for the other. In the world of the near-future, a wave that will be even larger than low-cost Third World labor is the non-labor-intensive technology that is now arising out of computers, robots and biotechnology. Both low-cost labor and near-workerless technology will be marvelous in their production of goods and services, but each will vastly undercut incomes from wages, which is what the overwhelming majority of people depend upon. The point to notice is that near-workerless technology will multiply even (or most especially) *within* advanced economies, with the effect that insulation of those economies from lowly-paid foreign labor will not protect their wage earners. This portends its own crisis of incomes and distribution, with enormous inequalities that will have little or nothing to do with individuals' willingness to work.

Adherents of all social philosophies – including those who wish most purely to embrace a free market – will have to face up to the coming crisis of the wage system. Further down the trail, even the most ardent individualist will find that free markets and economic nationalism will have to have added to them a broad-based distribution of economic product. The result will be a new form of social and economic system.

Dwight D. Murphey

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Man
Between Past and Future

BRUNETTO CHIARELLI

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The Philosophy of Nationalism

Professor Charles C. Josey

"Nationalism" is perceived as a controversial ideology in contemporary political science. But although it has retreated in the West, it remains a strong force in post-Soviet eastern Europe, and is still paramount in Japan, China, India and most parts of Asia, Africa and Latin America. This work, published under the title of *The Philosophy of Nationalism* provides a valuable insight into what consitutes a nation and how nations may survive.

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